

No. 167.

AN ACT

Regulating the assessments and collection of township taxes, in the counties of Bradford, Tioga and Potter, and fixing the manner of reviewing and confirming roads, and of assessing damages where roads are laid out through improved lands, in said counties.

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 commissioners of roads and highways of each of the several townships, in the counties of Bradford, Tioga and Potter, be and they are hereby authorized and required to make an estimate, annually, on or before the first day of May, in each year, of the probable expenses of their respective townships for the ensuing year, beginning with the first day of June next after the making of such estimate, in which estimate they shall name the amount which in their judgment will be needed in the ensuing year, as aforesaid, for each of the following purposes, to wit: For the support of the poor; for pay of commissioners of roads and highways; for pay of township auditors; for pay of township treasurer; for pay of town clerk; for pay of collector of township taxes; also, for pay of any other officer or officers who may be entitled to compensation out of the funds of said township; also, for books and stationery and other incidental expenses, and for furnishing materials and implements for keeping roads and bridges in repair, and the amount of township debts, (if any such exist) as nearly as the same can be ascertained; which estimate shall be entered in a book to be kept by the town clerk, who shall be clerk to the said commissioners, and keep a record of their official acts; and when said estimate is so entered, it shall be signed by said commissioners, or a majority of them, and the said town clerk shall immediately furnish a certified copy thereof to the township treasurer, who shall keep the same on file; and the said commissioners shall proceed, before the twentieth day of May, in each year, to levy a tax of not exceeding one cent in the dollar on the last adjusted assessment and valuation of persons and property, made taxable for county purposes in said township; and having levied the same at a certain per centum, shall cause a list to be made in alphabetical order of the names of the persons taxed, with the amount assessed to each by the last adjusted assessment and valuation for county purposes, and the amount with which such person is taxed by virtue of this act, to which list shall be prefixed the rate per centum at which said tax is levied; and the aggregate amount of taxes in such list, and the rate per centum at which they are levied, shall be entered by the town clerk in the book to be kept by him as aforesaid; and the said town clerk shall deliver to the township treasurer, a certified statement of said aggregate amount of taxes and rate per centum, and the name of the person to whom a duplicate thereof has been delivered for collection, whenever such delivery has been made and the time of such delivery; and said commissioners shall cause a duplicate of such alphabetical list of persons and taxes to be made out, to which they shall annex their warrant, signed by them officially, directed to some suitable person by them to

Commissioners of roads to make an estimate of annual expenses.

Estimate to be entered in a book

Levy a tax.

Duplicate to be made out and delivered to collector.

be appointed collector of township taxes, which appointment they are hereby authorized and required to make, requiring him to proceed to collect the same, in the same manner as collectors of county rates and levies are directed by the warrants of county commissioners, to proceed in the collection of the same and to pay the said taxes, when collected, to the township treasurer, in the same manner as collectors of county rates and levies are required to pay the same to county treasurers; and the collectors of township taxes, appointed in pursuance of this act, are hereby vested with like powers and authority to proceed in the collection of the same, and may proceed in like manner as collectors of county rates and levies are by law authorized to proceed in the collection thereof, and shall be entitled to the same fees as collectors of county rates and levies; and the duplicate aforesaid, with the warrant of the said commissioners annexed, shall be delivered to the collector of township taxes, on or before the first of June, in each year, by the town clerk, who shall charge the said collector in the book aforesaid, with the said duplicate, setting forth in said charge the aggregate amount of taxes charged in said duplicate, and the time of its delivery: *Provided*, That before said duplicate shall be delivered to said collector, he shall execute a bond to said township, in such penal sum, and with such sureties (at least two in number) as the said commissioners shall approve, conditioned for the faithful performance of his duty as collector of township taxes; and the town clerk having entered in the book aforesaid the date of, and the penal sum, and the names of the sureties in said bond, shall deliver the same to the township treasurer, who shall keep the same on file: *And provided further*, That whenever, in the opinion of the said road commissioners, or a majority of them, the moneys received, or to be received from the road tax on unseated lands, or from any other source, will be sufficient to pay the debts and defray the expenses as aforesaid, during the current year, it shall not be lawful to assess the tax mentioned in this section, unless they are required to do so by the court of common pleas, as is hereinafter provided.

Compensation of collector.

Proviso.

Collector to give security.

Proviso.

Suits may be brought on collector's bond.

Exonerations.

Court of common pleas may increase tax, impose certain conditions.

SECTION 2. That whenever any collector of township taxes shall have failed to collect and pay over any taxes, with the collection of which he has been charged, in pursuance of this act, the township treasurer may proceed to institute a suit in the name of the proper township, on the bond executed by said collector and his sureties, before a justice of the peace, or in the court of common pleas, as the sum claimed to be due from said collector may require, and may prosecute the same to judgment, and have execution as in other cases.

SECTION 3. That the commissioners of roads and highways may exonerate the collector of township taxes, in their proper township, from the payment of any taxes charged in the duplicate of such collector, in the same manner, and for like causes, as collectors of county rates and levies may be exonerated from the payment of the same by the county commissioners.

SECTION 4. That no other or greater taxes shall be levied by the commissioners of roads and highways, in any one year, with a view to the collection of the same in money, than is authorized by the provisions of the first section of this act, except that the court of common pleas of the proper county may, upon application to such court by any person, setting forth that any township is indebted to him, direct notice of such application to be given to the commissioners of roads and highways of such township, and after hearing said applicant and commissioners, at a time named by the said court, of which time all parties shall have due notice, may order such taxes to be increased; but in no

case shall such court order the same to be increased above two cents in the dollar of the last adjusted assessment and valuation of persons and property in said township, as aforesaid; and whenever the court shall order an increase of taxation in any township, according to the provisions of this act, the commissioners of roads and highways of such township shall increase the same accordingly; but nothing in this act shall be construed to authorize or compel the said commissioners to levy more than one tax upon the persons and property of such township, to be collected in any one year: *Provided*, That nothing in this section shall be construed to prevent the collection, in money, of any tax which shall have been levied by the commissioners of roads and highways, with a view to collect the same in labor, in pursuance of law, whenever the person charged with such tax shall neglect or refuse to pay the same in labor, after due notice. Proviso.

SECTION 5. That the money collected in pursuance of this act, shall be paid out, upon orders drawn upon the township treasurer by the commissioners of roads and highways, for the payment of the current expenses of the township, and in payment of the township debts; and the debts of longest standing shall, as far as practicable, be paid first. Moneys to be paid on orders of commissioners of roads.

SECTION 6. That any person or persons dissatisfied with the location of any road heretofore laid out, or which may be hereafter laid out by the commissioners of roads and highways of any township or townships, in said counties, may give notice in writing to the town clerk of the township in which such road is located, of such dissatisfaction; and said town clerk shall appoint a day, not more than ten days distant from the time of receiving such notice, for the meeting of the said commissioners, and person or persons giving such notice, at the office of said town clerk, or at some other convenient place in the neighborhood; of which time and place the said commissioners, and person or persons giving the notice, shall be informed by the town clerk, at least four days before the time of meeting, at which time and place the town clerk shall attend; and if the said commissioners, or any one of them, shall attend, he or they may name one commissioner of roads and highways of an adjoining township, and the person or persons dissatisfied may also name one commissioner of roads and highways of an adjoining township, and the two commissioners thus named may agree upon a third commissioner, not of the township in which the road complained of lies; and the commissioners thus named shall proceed to review the road where the location is complained of, and may confirm, alter or vacate the same, and make report to the town clerk of the township in which the road lies, and their report shall be entered of record, as in other cases, and shall be final and conclusive in regard to said road, for two years thereafter: *Provided*, That if the said road is altered or vacated by the commissioners who review, their day wages for such services, shall be paid by the township in which the road is situated, otherwise by the person or persons who gave notice of dissatisfaction: *And provided further*, That if no commissioner shall attend at the time and place named by the town clerk, to name commissioners to review, then the town clerk shall name one on behalf of the commissioner of said township, and like proceedings shall be had, as if the commissioners, or one of them, had attended: *And it is also further provided*, That no review shall be had, in pursuance of the provisions of this section, of any road laid out after the first of September next, unless notice of dissatisfaction is given to the town clerk, within thirty days after the report of the commissioners, laying the same, has been filed with said town clerk: *And provided further*, That in all cases where roads have been, or shall be, laid out in any of the several Proceedings in cases of laying out roads. Proviso. Proviso. Proviso.

townships, in said counties, by said commissioners, prior to said first day of September next, such notice may be given at any time previous to the first day of October next, but not afterwards.

SECTION 7. All damages sustained by any owner of improved lands, by reason of the laying out and opening any public roads through said improvement, shall be paid by the township in which said road is located, and the method of ascertaining the same shall be as follows: the owner of such improved lands, who may consider himself injured by the location of said road, shall file with the town clerk a statement of the injury sustained, and of his intention to claim damages for the same, which said statement, and all subsequent proceedings thereon by the officers of said township, shall be entered by said clerk upon the township records; and it shall be the duty of the said clerk, within ten days after receiving such statement, to notify the commissioners of roads and highways, and the auditors of the township, of the same, who shall, as soon as practicable, examine said claim, and if necessary view the premises; and if in their opinion, or that of a majority of them, such person hath sustained damage by reason of the location of said road through his improved lands, they shall fix the amount, and give the applicant notice thereof, in writing, with as little delay as possible; and if the person so applying for redress, shall be content to receive the said amount as a full compensation for his claim aforesaid, the road commissioners, upon receiving a notice in writing of his willingness to receive the same, shall draw an order on the treasurer of the township in favor of said applicant, for said amount; but in case said road commissioners and auditors, or a majority of the same, should be of opinion that said applicant was not entitled to damages; or if the said applicant should not be willing to receive the amount fixed by them, in full of his claim, he may apply by petition to the court of quarter sessions of the proper county, setting forth the cause of complaint; and thereupon, the said court shall appoint three disinterested persons to view the premises and assess the damages, if any, which such petitioner may have sustained, by reason of the laying out and opening said road through his improved lands, as aforesaid.

SECTION 8. The viewers so appointed, after having been duly sworn by any person having power to administer oaths, or by one of their own number, who is hereby authorized to administer the same, well and truly to view said premises, and justly and equitably to assess the damages, shall proceed to perform said duty, and make a report, signed by them, or a majority of them, to the next court of quarter sessions of said county, setting forth the length and manner of the location of said road through the petitioners improved lands, and the amount of damages (if any) which has been sustained by said petitioner.

SECTION 9. It shall be the duty of the court, at the term to which the report aforesaid is made, to make an order, naming a day certain, during the succeeding term for the final disposition of said complaint, notice of which, together with a copy of the report, shall be served upon the commissioners of the township from which damages are claimed, at least ten days before said matter is to be determined.

SECTION 10. At the time of hearing said parties, the said court may, in their discretion, examine witnesses, touching said matter, and may either approve of the report of the viewers, or lessen or increase the amount as they shall see fit; the whole proceeding to be entered of record, and the decree of the court to have the same validity, and be enforced in the same manner, as a judgment entered upon the verdict of a jury: *Provided*, That if the complainants shall not recover an amount greater than the sum offered by the commissioners and town-

Proceedings to ascertain amount of damages to improved lands.

Damages, how paid.

Court of quarter sessions, to appoint viewers in certain cases.

Report of viewers

Court to dispose of complaint.

Decree of court to be enforced.

Proviso.

ship auditors, he shall pay all costs accruing on said petition, including Costs, by whom the pay of the viewers, which shall be one dollar each, per day, other- to be paid. wise the costs to be paid by the proper township; in either case to be taxed as costs for similar services are now fixed by law.

SECTION 11. In all cases where damages are claimed by reason of When notice to the laying out and opening any road as aforesaid, by the said road com- be given in cases missioners, prior to the first day of September next, the notice mentioned of damages. in the seventh section of this act, to be given by the person claiming damages, to the town clerk, shall be given by the first day of January next; and in cases of roads opened after the first day of September, aforesaid, such notice shall be given within three months after the opening of the same.

SECTION 12. That the road commissioners of the townships in the Views. several counties aforesaid, shall not be required to view any route for a proposed road, unless the petition, praying for the same, be signed by at least fifteen citizens of the township where said proposed route for a road is situated.

SECTION 13. That from and after the first day of September next, it Bridges in Tioga shall be the duty of the commissioners of roads and highways, of the county to be kept several townships in Tioga county, to keep in repair county bridges, and in repair, and by to pay the expense thereof out of the funds of the township where said whom costs paid. bridge is located, except in cases where the repairs necessary to be made at one time, shall exceed the sum of twenty dollars, which shall be made under the direction, and the expenses thereof, paid by the commissioners of the said county out of the county funds.

SECTION 14. That the assessor of each of the townships in said Duty of assessors. county shall, on or before the fifteenth day of April, in every year, furnish to the town clerk of the respective townships, for the use of the commissioners of roads and highways, a copy of the last adjusted assessment and valuation of persons and property, of said township, for county purposes.

SECTION 15. That any person appointed collector of township taxes, Penalty for re- in pursuance of the provisions of this act, and who shall neglect or fusing to collect refuse to take upon himself the duties of the same, shall forfeit and pay, road taxes. for the use of said township, twenty dollars, to be recovered by suit, in the name of said township, as debts of like amount are recoverable: *Provided*, That no person shall be compelled to serve as collector of Proviso. township taxes, or pay said forfeiture, oftener than once in seven years.

SECTION 16. That so much of any law as this act alters or supplies, Repeal. is hereby repealed.

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

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

FRS. R. SHUNK.