

ROADS, HIGHWAYS AND BRIDGES.

I. State Highway Department.

1. Immediately upon the approval of this act, a State Highway Department shall be established by the appointment by the Governor of the Commonwealth, with the advice and consent of the Senate, for a term of four years, of a State Highway Commissioner, who shall be a competent civil engineer, and experienced in the construction and maintenance of improved roads. Said State Highway Commissioner shall receive a salary of three thousand five hundred dollars per annum, and shall be allowed his actual traveling expenses, not exceeding five hundred dollars, while officially employed. He shall furnish a bond in the sum of twenty-five thousand dollars for the faithful performance of his duty, said bond to be approved by the Governor, and he shall give his whole time and attention to the duties of his position. The said State Highway Commissioner may appoint, as the work of the department requires it, and subject to the approval of the Governor, one assistant, who shall be a capable and competent civil engineer and experienced in road building, who shall receive an annual salary of two thousand dollars, and shall be allowed his actual travelling expense, not to exceed five hundred dollars, when on official business; and he shall also appoint a chief clerk, at an annual salary of fifteen hundred dollars per annum, and may employ an additional clerk who shall be a competent stenographer, at an expense not to exceed one thousand dollars per annum. The State Highway Commissioner may require the employes of the Department to give bond for the faithful performance of their duty, in suitable and reasonable amounts.

2. The State Highway Department shall be provided with suitable rooms in the State buildings at Harrisburg, and its officers shall be open at all reasonable times for the transaction of public business. The State Highway Commissioner shall carry into effect the provisions of this act and all acts of Assembly providing for the co-operation of the State, in the construction and maintenance of public highways. He shall have charge of the records of the State Highway Department; and shall each year submit to the Governor of the Commonwealth a full report of the operations of the Department, the number of miles, cost and character of the roads built under its direction, detailed statements of the expenses of the Department, and such other information concerning the condition of the public roads of the State and the progress of their improvement as may be proper.

3. Whenever the county commissioners of any county shall represent by petition to said State Highway Department that any principal highway in said county, outside of the corporate limits of any city or borough, is not in a satisfactory condition for comfortable or economical travel, and ought to be reconstructed under the provisions of this act, and shall furnish to the said Department an accurate plan of the layout, lines, profile and established grade of such highway, it shall be the duty of the State Highway Commissioner to examine such highway, or instruct one of his assistants so to do; and if in the judgment of the State Highway Commissioner said representation is well-founded, he shall determine what changes should be made in said existing highway, what portion of it should be improved and in what manner, and shall prepare accurate plans and make careful detailed estimates of the expense of the work which, in his opinion, should be done, and report the same to the county commissioners of the county and the supervisors or commissioners of the township or townships in which the said highway may lie. If the said county commissioners and township supervisors or commissioners then decide that it is advisable to go on with the work as hereinafter provided, and make the required agreements as hereinafter specified, the State Highway Department may, if the funds at its disposal permit of so doing, contract jointly with the county and township, or townships, in which said highway lies, to carry out the recommendations of the State Highway Commissioner; the cost of the same, including all the necessary surveys, grading, material, construction, relocation, changes of grade, and expenses in connection with the improvement of said highway, to be borne in sixty-six and two-thirds per centum by the State, sixteen and two-thirds per centum by the county, and sixteen and two-thirds per centum by the township or townships in which the portions of said highway, improved as herein provided, may lie: Provided, That the State aid shall be apportioned among the several counties of the Com-

15 April 1908 § 1.
P. L. 188.

State Highway Department established.

State Highway Commissioner. Salary.

Bond.

Assistant Commissioner.

Salary.

Chief clerk.

Stenographer.

Bonds.

Ibid. § 2.

Offices in state buildings.

Records of Department. Annual Report to the Governor.

Ibid. § 3.

Improvement of highways on petition of county commissioners.

Examination.

Commissioner to prepare plans, etc.

Contract jointly with county and township.

Apportionment of cost.

Apportionment of State aid.

15 April 1903 § 3.
P. L. 188.

Roads constructed under provisions of act of June 26, 1895.

If appropriation is not applied within two years.

Appropriation by county or township of a larger sum.
Agreement between county and townships.

Sworn statement of miles of road.

Ibid. § 4.

Highways to conform to standard.

Minimum length and width of improved section.

Ibid. § 5.

All work to be done by contract.

Bids and option.

Contractor's bond.

Ibid. § 6.

Townships may bid and contract.

Ibid. § 7.

Apportionment of total expense. Commissioner to certify total expense to county commissioners, etc.

monwealth according to the mileage of township or county roads in each county, but the said amount shall remain in the State Treasury until applied for under the provisions of this act: And provided, That any county constructing county roads under the provisions of the act of June twenty-sixth, one thousand eight hundred and ninety-five (Pamphlet law, three hundred and thirty-six), and supplements and amendments thereto, shall be entitled to receive the same amount of State aid as if said roads were constructed under the provisions of this act: And provided further, That if the appropriation, so apportioned by the State, shall not be so applied for a period of two years after it has become available, the amount so apportioned and set aside for that county shall be returned to the State Treasury, and added to the appropriation for the current year, and distributed anew under the provisions of this act: And provided further, That nothing herein contained shall prevent any county and townships from agreeing to appropriate a larger amount for such road improvement than the amounts specified in this act: And provided, That counties and townships may agree among themselves to contribute their combined proportion of the thirty-three and one-third per centum of the total expense of construction, herein provided to be borne by them, in different proportions from that hereinabove specified; but in no case shall any township or county pay less than five per centum of the entire expense of such improvements: Provided, That the county commissioners shall furnish, under oath, to the State Highway Commissioner the total number of miles of township or county public roads, by townships, to the State Highway Commissioner.

4. All highways improved under the provisions of this act shall conform to the standard of construction established by the State Highway Department, as best adapted to the locality in which they may be located, with due regard to the topography and natural conditions and the availability of road-building materials, and shall be constructed according to the best engineering practice. No section of highway improved under this act shall be less than one-fourth mile in length, nor shall the improved portion thereof be less than twelve feet in width. So far as is consistent with the just and equitable administration of this act, the State Highway Department shall encourage a general system of highway improvement.

5. All work done under the provisions of this act shall be by contract, according to plans and specifications to be prepared by the State Highway Commissioner and approved by the county commissioners of the county and the supervisors or commissioners of the township or townships, as hereinbefore provided; and in awarding said contracts the work shall be given to the lowest and best bidder, with the option upon the part of the State Highway Commissioner, the county commissioners, or the township supervisors or commissioners, to reject any or all bids if they consider the same unreasonable, or if the prices named are materially higher than the estimated cost of the work as provided for. Every person, firm or corporation, before being awarded any contract for the construction or improvement of any highway under the provisions of this act, shall furnish a bond, acceptable to the State Highway Commissioner, in a sum equal to the contract price of the work, conditioned upon the satisfactory completion of the same and to save harmless the State, county and the township or townships, in which the work may lie, from any expense incurred through the failure of said contractor to complete the work as specified, or for any damages growing out of the carelessness of said contractor or his or its servants.

6. Any township may, through its supervisors or commissioners, be authorized to bid for the construction of such portion of any highway improvement, undertaken under the provisions of this act, as may lie within its limits; and any township submitting such bid shall have the same consideration as other bidders, and, if awarded the contract, shall fulfill the same and be subject to the same regulations as are laid down for other bidders.

7. Upon the completion of any highway, rebuilt or improved under the provisions of this act, the State Highway Commissioner shall immediately ascertain the total expense of the same, and apportion the said total expense between the State, the county and the township, or townships, in the proportion hereinbefore provided; and in case the said improved highway shall

extend into or through two or more townships, he shall apportion the proportion of the expense, aforesaid, to be borne by each township among the several townships, in the same proportionate parts as the cost of the improvement within each township shall bear to the whole expense of the improvement which has been made according to the provisions of this act; and the said State Highway Commissioner shall certify the total expense of said improvement to the county commissioners and to the supervisors or commissioners of the township, or townships, in which the improved highway has been constructed, respectively, specifying the amounts to be borne by the State, the county and the township, or each township, as provided by this act.

8. The State's share of the expense of highway improvement or maintenance, under the provisions of this act, shall be paid by the State Treasurer upon the warrant of the State Highway Commissioner, attested by the chief clerk of the State Highway Department, out of any specific appropriations made by the legislature to carry out the provisions of this act; and the share of the county in which said highway improvement, as herein provided, has been made, shall be a charge upon the funds of said county, and shall be paid by the county treasurer upon the order of the county commissioners. The share of the township or townships in which the said highway improvement, as herein provided, has been made, shall be paid by the township supervisors or commissioners, as other debts of said township or townships are paid. The State Highway Department, the county commissioners of the county, and the supervisors or commissioners of the township, or townships, in which any highway is being improved under the provisions of this act, may, with the approval of the State Highway Commissioner, make partial payments to the contractor or contractors performing the work, as the same progresses; but not more than two-thirds of their proportionate shares of the contract price for the work shall be paid, in advance of the full completion of the same, by either the State Highway Department, the county, and the township or townships, so that at least one-third of the full contract price shall be withheld until the work is satisfactorily completed and accepted, and the exact proportions of the cost thereof apportioned to the State, county and township, or townships: Provided, That a cash road tax levied by each township, where such road improvement is being made, to meet the cost of such permanent road improvement as is provided in this act.

9. Every contract authorized to be made by the State Highway Department, under the provisions of this act, shall be made in the name of the Commonwealth of Pennsylvania, and shall be signed by the State Commissioner of Highways and attested by the Chief Clerk of the Department, and shall be approved, as to form and legality, by the Attorney General or Deputy Attorney General of the Commonwealth. No contract for any highway improvement shall be let by the State Highway Department, nor shall any work be authorized under the provisions of this act, until the written agreement of the county commissioners of the county and the supervisors or commissioners of the township, or townships, in which said proposed improvement is to be made, agreeing to assume their respective shares of the cost thereof, as hereinbefore provided, shall be on file in the office of the State Highway Department, and shall have been approved, as to form and legality, by the Attorney General or the Deputy Attorney General of the Commonwealth.

10. The county commissioners of any county may, upon the presentation to them of a petition from the supervisors or commissioners of any township, or of two or more adjoining townships, representing that any principal highway or section thereof, lying within said township or townships, is in need of reconstruction, and setting forth that said township or townships desire to take advantage of the provisions of this act to improve said highway, pass a resolution petitioning the State Highway Department to undertake the improvement of the highway or section thereof specified in the petition from the township or townships aforesaid, and authorizing the assumption by the county of its share of the expense of said improvement; accompanying the said petition to the State Highway Department with a map or plan showing the layout, lines, profile and grade of such highway, as hereinbefore provided: Provided, That where the county commissioners petition the State Highway Commissioner for the improvement

15 April 1903 § 7.
P. L. 188.

Ibid. § 8.

Payment of the State's share.

Payment of the county's share.

Payment of the township's share.

Partial payments to contractor.

Cash road tax.

Ibid. § 9.

Contracts to be made in the name of the Commonwealth.

To be approved by the Attorney General.

Written agreement of county and township officers to be filed.

Ibid. § 10.

Improvement of highways on Petition of township officers.

Resolution of county commissioners.

Map, plan, etc.

15 April 1908 § 10.
P. L. 188.

Material.

Ibid. § 11.

Township supervisors may petition county commissioners.

Township may incur indebtedness or issue bonds.

Petition of owners of real estate, protesting against expenditure.

Petition of owners of real estate, favoring improvement.

Ibid. § 12.

In case county commissioners neglect or refuse to act upon township's petition.

Township may petition court.

Report of jury of view.
Order of court.

Appointment of and compensation of jury of view.

Ibid. § 13.

Joint petition of townships.

Ibid. § 14.

Advertisements for proposals.

Ibid. § 15.

Ten per cent to be set aside for Maintenance of highways.
Apportionment maintenance fund.

of a public road or parts thereof, they shall state the kind of material to be used or available for such road.

11. The supervisors or commissioners of any township in any county of the Commonwealth may petition the county commissioners of said county to make application to the State Highway Department for the co-operation of the State in the reconstruction or permanent improvement of any principal highway within the said township, or any section thereof which is much used as a thoroughfare by the people of said township and the neighboring townships, cities and boroughs, agreeing by resolution to assume, for said township, the proportionate share of the expense of said improvement, as hereinbefore provided. It shall be lawful for any township to incur indebtedness or to issue bonds, in the manner authorized by law, for the payment of the said township's share of the cost of any highway improvement undertaken under the provisions of this act. If within thirty days after the receipt of any petition for highway improvement in any township, under the provisions of this act, a petition, signed by the owners of a majority of the assessed valuation of real estate in said township, is received by the county commissioners of the county in which said township is located, protesting against said proposed expenditure upon the part of the township, then the county commissioners shall take no action on said petition for improvement, but shall return the same to the supervisors or commissioners from whom it was received. Upon the receipt of a petition, signed by the owners of a majority of the assessed valuation of real estate in any township, requesting the application by said township for the improvement of any highway in said township according to the provisions of this act, it shall be the duty of the supervisors or commissioners of said township to petition the county commissioners in the manner hereinbefore described.

12. In case the county commissioners of any county shall neglect or refuse to act upon the petition of any township or townships for highway improvement, as herein provided, or shall refuse to petition the State Highway Department for State aid in such proposed improvement, after said township or townships shall have complied with the conditions of this act in petitioning said county commissioners, the supervisors or commissioners of said township or townships may, through their proper officers, petition the court of quarter sessions of said county for the appointment of a jury of view to examine into the necessity of said proposed highway improvement; and upon the said jury of view making a report favorable to said improvement, and with the approval of the court, it shall be the duty of, and the court may by order require, the said county commissioners to petition the said State Highway Department for the co-operation of the State in the said proposed highway improvement, in the manner herein provided. Said jury of view to be appointed and compensated in the same manner, and to have the same powers, as juries of view for laying out or changing public roads have by existing law.

13. The supervisors or commissioners of any adjacent townships, in the same county, in which any portion of a principal highway running into or through said townships may lie, may by resolution jointly petition the county commissioners of their county to make application to the State Highway Department for the co-operation of the State in repairing or rebuilding said highway, as herein provided.

14. Advertisements for proposals for the reconstruction or improvement of highways under the provisions of this act shall be given by the county commissioners, at least thirty days before the contracts may be awarded, by public notice in at least two newspapers of general circulation in the county in which the highway to be improved is located; such advertisement to designate where the plans and specifications may be had, and the time and place of the reception of bids and the letting of the contract.

15. Ten per centum of the amount available for highway purposes, under the provisions of this act, shall be set aside for the purpose of maintenance of highways, as hereinafter provided, and shall be apportioned by the State Highway Commissioner among the townships or counties applying for the same, in proportion to the mileage of improved highways made under the provisions of this act, or which have already been made or may hereafter be made, at the expense of such townships or counties, and which

are of the standard prescribed by the State Highway Department for improved highways.

16. Whenever the supervisors or commissioners of any township or county shall desire State aid for the purpose of maintenance of improved highways, whether State highways improved under the provisions of this act or otherwise, it shall be the duty of said supervisors or commissioners to file with the State Highway Department, on or before the first day of April in each year, a sworn petition requesting such State aid, and setting forth the number of miles of highways improved according to the standards of the State Highway Department in said township, and the cost of the same to said township, together with the condition of said improved highways and the average annual cost of maintaining the same. The State Commissioner of Highways, if in his judgment the conditions warrant the co-operation of the State in maintaining said highways, shall apportion to said township its proportion of the total amount available for the maintenance of improved highways, as hereinbefore provided, and the said amount shall be paid to the supervisors or commissioners of said township by warrant of the State Highway Department; but in no case shall the amount thus given by the State for maintenance, be more than one-half the amount which, in the judgment and experience of the State Highway Commissioner, the annual cost of maintaining improved highways of the standard of construction prevailing in such township should be, nor more than one-half the sworn, average annual cost of maintenance, as set forth in the petition of the supervisors or commissioners of the said townships.

17. All highways, or portions of highways, constructed or improved under the provisions of this act, shall thereafter be known as "State Highways," but, so far as the same may be within the limits of any township, shall be kept in repair, so that they may be maintained at the standard of condition prescribed for highways of their class by the State Highway Department, at the expense of said township; but the supervisors or commissioners of any township possessing improved highways may ask for and receive State aid for the maintenance of the same, as hereinbefore provided. It shall be the duty of the supervisors or commissioners of every township in which said State Highways may lie, to maintain the same generally at a reasonable standard, prescribed for such roads by the State Highway Department.

18. The word "highway," as used in this act, shall be construed to include any existing causeway or bridge, or any new causeway or bridge, or any drain or water-course which may form a part of a road, and which might properly be built, according to existing laws, by the township or townships; but shall not include causeways or bridges which should properly be built by a county, or adjoining counties, or by the State.

19. Where a portion of an important main highway, traversing one or more townships, and for the improvement of which according to the provisions of this act application has been made by said township or townships, shall lie within the limits of any borough or boroughs, and where the failure of said borough or boroughs to improve the said highway would leave a break or unimproved section in a continuous improved highway, it shall be lawful for the county commissioners of the county in which said highway is located, to enter into an agreement with said borough or boroughs to bear a portion of the expense of said improvement of the highway within the borough limits, in the same manner as is herein provided for co-operation between the counties and townships; and the State Highway Department may, if the State Highway Commissioner so recommends, bear a portion of the expense of said improvement of said highway within said borough limits, but in no case shall the portion of said expense to be borne by the State exceed one-third of the total expense of said improvement, and boroughs shall only receive aid from the State, as aforesaid, in cases where failure to receive such aid would prevent a continuous improvement of an important main highway, provision for the rebuilding of which has been made in the township or townships adjoining said borough or boroughs. All improvements made in borough highways, as herein provided, shall be of a character similar to that specified for the township or townships through which the highway to be improved passes in reaching said borough and boroughs, and the plans and specifications for the work shall be approved by the State Highway Department; and the completed

15 April 1903 § 15.
P. L. 188.

Ibid. § 16.

State aid for maintenance.

Sworn petition.

Apportionment to township.

Limited to one half of annual cost.

Ibid. § 17.

Improved highways to be known as "State Highways."

Ibid. § 18.

"Highway" construed.

Ibid. § 19.

When portion of highway is within a borough.

Agreement with borough.

State may bear a portion of expense.

Limit of.

Borough highways.

Plans and specifications.

15 April 1903 § 19.
P. L. 188.

Approval of
work.
Duty of borough
officers.

Ibid. § 20.

Commonwealth
not to be liable
for damages.

Ibid.

Damages from
change of grade
or taking.

Petition.
Viewers.
Proceedings.

Ibid. § 21.

General Highway
plan of the State
to be made.

Duties of the
Commissioner.

He may be con-
sulted by officers.

Promotion of im-
provement.

Ibid. § 22.

Duty of county,
city, borough
and township
officers.

Ibid. § 23.

Construction of
improved high-
ways.

Selection of ma-
terial for road.

Ibid. § 24.

\$6,500,000 appro-
priated.

work shall be approved by said department before any warrant shall be issued for the State's share in such improvement, as herein provided. It shall be the duty of the proper officers of said borough or boroughs, charged with the maintenance of the streets and highways of said borough or boroughs, to keep and maintain said improved highway, within the borough limits, in a condition to conform to the standard established by the State Highway Department for the maintenance of similar highways.

20. The Commonwealth of Pennsylvania shall not be liable to any person or corporation for damages arising from the rebuilding or improvement of any highway under this act, nor shall the State engage to keep such highway in repair after the same shall have been rebuilt or improved, except to extend the aid in maintenance herein provided.

21. In case any person or persons, or corporations, shall sustain damage by any change in grade, or by the taking of land to alter the location of any highway which may be improved under this act, and the county commissioner and the parties so injured cannot agree on the amount of damages sustained, such persons or corporations may present their petition to the court of quarter sessions for the appointment of viewers to ascertain and assess such damage; the proceedings upon which said petition and by the viewers shall be governed by the laws relating to the assessment of damages for opening public highways, and such damages, when ascertained, shall be paid by the respective counties, and afterwards apportioned by the Commissioner of Highways, according to the provisions of section seven.

22. In addition to his other duties, the State Highway Commissioner shall cause to be made and kept for the State Highway Department a general highway plan of the State, and compile statistics and collect information relative to the mileage, character and condition of the highways in the townships and counties of the State. He shall investigate and determine upon the various methods of road construction best adapted to the various sections of the State; and establish standards for the construction and maintenance of highways in the various sections, taking into consideration the topography of the country, the natural conditions and the character and availability of road-building material, and the ability of the townships and counties to build and maintain roads under the provisions of this act. He may, at all reasonable times, be consulted by county, city, borough or township officers having authority over highways and bridges, and shall, when requested, advise and give information to such officers relative to the construction, repairing, alteration and maintenance of the said highways and bridges. He shall at all times lend his aid in promoting improvements throughout the State, and shall prepare and disseminate useful information relative to road building and improvement.

23. County commissioners or county engineers of the several counties of this State, and the officers of all cities, boroughs and townships in the State, who now have, or may hereafter have by law, authority over the public highways and bridges, shall, upon the written request of the State Highway Department, furnish said Department with any information relative to the mileage, cost of building, and maintenance, condition and character of the highways under their jurisdiction, and with any other needful information relating to the said highways.

24. All highways improved under the provisions of this act shall require the construction of a macadamized road, or a telford or other stone road, or a road constructed of gravel, cinder, oyster-shells, or other good materials, in such manner that the same, of whatever material constructed, will, with reasonable repairs thereto, at all seasons of the year be firm, smooth and convenient for travel. The county commissioners shall have the authority to select the kind of materials to be used in improving any road under the provisions of this act. Any difference of opinion that may arise between the county commissioners and the township road authorities, as to the kind of a road to be built, shall be decided by the State Highway Commissioner. The State Highway Commissioner shall furnish to the county commissioners and township road authorities information as to the probable cost of improved highways, as defined in this section.

25. The sum of six millions five hundred thousand dollars is hereby appropriated to carry out the provisions of this act during the next six years. Of this sum, an amount not to exceed five hundred thousand dollars shall be available in the first year after the passage of this act, not more

than five hundred thousand dollars shall be available in the second year, one million two hundred and fifty thousand dollars in each of the two next following years, and one million five hundred thousand dollars in each of the two years next following.

26. All acts or parts of acts inconsistent herewith are hereby repealed: Provided, That the provisions of this act shall not be construed to repeal any of the provisions of the road acts approved June twenty-sixth, one thousand eight hundred and ninety-five (Pamphlet laws, three hundred and thirty-six), and June twenty-three, one thousand eight hundred and ninety-seven (Pamphlet laws, one hundred and ninety-four), and July ten, one thousand nine hundred one (Pamphlet laws, six hundred and thirty-six).

15 April 1908 § 24,
P. L. 189.

When available.

Ibid. § 25.

Repeal.
Certain acts not repealed.

II. Laying out Public Roads.

27. In all cases wherein any proceedings are had before any county commissioners or courts of this Commonwealth, looking to the opening and construction of new roads for public use, it shall be the duty of the parties making application for such road to give written notice to the supervisors of the territory through which such new public road is designed to be laid out and constructed, of the time and place of any views, reviews or re-reviews therein, and a copy of such written notice, properly attested, shall be filed among the records of the court having cognizance of the matter, and a failure to comply with the provisions of this act shall be sufficient grounds for an application to set aside whatever proceedings may have been taken, of which said supervisors had no written notice as aforesaid. (a)

28. In all cases where viewers are appointed by the courts of this Commonwealth to view and lay out a public road, or where a review or re-review is ordered, the said viewers shall give the county commissioners or their clerk at least six days' notice in writing of the time and place of holding such view, review or re-review, and a copy of such written notice, properly attested, shall be filed with the report of such view, review or re-review, and a failure to comply with the provisions of the act shall be sufficient grounds to set aside the entire proceedings: Provided, That this act shall not apply to counties having special laws upon the subject. (b)

29. All acts or parts of acts inconsistent herewith are hereby repealed.

30. In all cases where public roads in this Commonwealth have been or may hereafter be laid out by viewers, and the report of such viewers has been or may hereafter be confirmed by the court, according to law, the width thereof fixed and ordered to be opened, and the same has been or may hereafter be opened, with the roadbed or track thereof traveled by the public located within the lines of such road as originally laid out, such lines shall be and remain the boundary lines of such road, unless the location of such road has been or may be changed by due course of law.

31. All laws or parts of laws not consistent herewith are hereby repealed.

32. In any township in this Commonwealth, which is adjacent to any city or borough, in which the authorities vested with the power to lay out and open public roads in said township determine to lay out and open a public road therein, which will be a continuation or extension of a street already opened and traveled by the public within the said city or borough, it shall be lawful for the authorities, so vested with the power to lay out and open roads in such township, to lay out and open said proposed road of the same width as the street of which it is a continuation or extension: Provided, That the opening of said proposed road shall be subject to all of the provisions now by law governing the laying out and opening of public roads in such township, excepting as to the width thereof.

2 May 1899.
P. L. 176.

Written notice to be served on supervisors, of proposed new roads, views, etc.

Notice properly attested to be filed.

Failure to comply with provisions of act.

3 April 1899 § 1.
P. L. 20.

Viewers and reviewers to give county commissioners notice in writing.

Ibid. § 2.

Repeal.

19 June 1901 § 1.
P. L. 573.

Boundary lines of public roads.

Ibid. § 2.

Repeal.

18 March 1901.
P. L. 51.

The laying out and opening of township roads which are extensions of city or borough streets.

(a) This act became operative from the date of its passage. *Towancencin Road*, 23 C. C. 113. See *Road in Curtin and Boggs Townships*, 23 C. C. 328.

This act, requiring notice of road proceeding to the supervisors, does not repeal the special road law of 13 March 1869, P. L. 308, applicable to Franklin County. *Road in Greenc and Guilford Townships*, 21 Sup. Ct. 418.

A report of viewers will not be set aside because of the want of notice to the supervisors,

where it appears that the first meeting was held only ten days after the date of the act, that the petitioners and their counsel had no knowledge of the act, and that public notice was given as was required by the local act. *Springfield Township Road*, 24 C. C. 625.

(b) Failure to give notice to the county commissioners of a road view will invalidate the proceedings. *Greenwood Township Road*, 23 C. C. 85.

<p>7 June 1901 § 1. P. L. 510.</p> <p>Commissioners in townships of the first class authorized to enact, lay out, etc., all roads, lanes, etc.</p> <p>Notice to be given.</p> <p>Hearing.</p> <p>Report.</p> <p>Proviso.</p> <p>Exceptions to report.</p> <p>Ibid. § 2.</p> <p>Appointment of viewers.</p> <p>Notice of view.</p> <p>Ibid. § 3.</p> <p>Hearing.</p> <p>Schedule.</p> <p>Notice of meeting.</p> <p>Report of viewers.</p> <p>Notice of filing.</p>	<p>33. The board of township commissioners, in townships of the first class, shall have power to enact, ordain, survey, lay out, widen, straighten, vacate, and relay all roads, streets, lanes and alleys within the townships upon the petition of any owner or owners of property through whose lands any such road, street, lane, or alley shall pass, or upon whose land the same shall abut, if in the judgment of said board of commissioners the same shall be deemed proper and necessary for the public convenience or benefit; and thereupon the said board shall give ten days' notice to the property owners affected thereby, of the time and place, when and where, all parties interested may meet and be heard; and witnesses may be summoned, and examined by said board and said parties interested, at said meeting or any adjournment thereof; and after such hearing and consideration of the matter, should the said board or a majority thereof decide in favor of granting the prayer of said petition, they shall make written report, together with a draft or survey of said road, street, lane or alley, fixing the width thereof, and noting the improvements along the line thereof, together with the names of the owners of property through which the same shall pass or whereon it shall abut, which report and draft shall be filed in the office of the clerk of the court of quarter sessions of the county wherein said township is situate: Provided, however, That any citizen or freeholder of said township may, within thirty days after the filing of said report, upon entering in said court sufficient surety to indemnify the said board for all costs incurred in the proceedings, file in said court exceptions to the said report, together with a petition for review, in conformity with the now existing road laws of this Commonwealth.(a)</p> <p>34. That upon the favorable action in such petition by said board, and after the expiration of the term allowed for filing exceptions, or upon the order of said court, in case the compensation for the damages or benefits accruing therefrom have not been agreed upon, the said court of quarter sessions of the proper county, or any law judge thereof in vacation, on application thereto by petition by said board of commissioners or any person interested, shall appoint three discreet and disinterested freeholders of said township as viewers; and appoint a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the line of the improvement and view the same and the premises affected thereby. The said viewers shall give at least ten days' notice of the time of their first meeting, by publication in one or more newspapers of said township, in which it is situate, and by handbills posted upon the premises, or otherwise as the said court shall direct, having regard to the circumstances of the case.</p> <p>35. The said viewers, having been duly sworn or affirmed, faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire in pursuance of the provisions of this act, and having viewed the premises and examined the property, shall hear all parties interested and their witnesses, and shall estimate and determine the damages for property taken or injured, to whom the same is payable; and, having so estimated and determined the damages, together with the benefits as hereinafter mentioned, they shall prepare a schedule thereof, and give notice to all parties to whom damages are allowed, or upon whom assessments for benefits are made, of a time, not less than ten days thereafter, and of a place where said viewers will meet and exhibit said schedule, and hear all exceptions thereto and evidence. Notice of the time and place of said meeting shall be given, by personal service, upon all parties allowed damages or assessed benefits, as shown upon said schedule, if resident in the township, and to all others by publication in newspapers, as provided in the second section of this act. After making whatever changes are deemed necessary, the said viewers shall make report to the courts, showing the damages and benefits allowed and assessed in each case; and file therewith a plan, showing the improvements, the properties taken or injured, and the properties benefited thereby. When said report is filed, notice thereof shall be given, by publication once in the newspaper or newspapers publishing the notice provided for in section second of this act. Said notice shall state the date of filing of the report, and shall contain a</p>
---	--

(a) See *Pepper & Lewis' Digest of Decisions*, Vol XII., col. 21187.

schedule of the damages and benefits as shown therein; and shall further state that, unless exceptions thereto be filed within thirty days from the date of filing of said report, it shall be confirmed absolutely.

36. The payment of damages may be imposed, either in whole or in part, on the township, or, in whole or in part, by assessments upon the property benefited by such improvements, as said viewers may determine and the court approve; and in the latter case, the viewers appointed to assess damages, having first estimated and determined the same apart from benefits, shall also assess the said damages, or so much thereof as they may deem just and reasonable, upon the properties peculiarly benefited by the improvement, including in the said assessment all properties for which damages have been allowed, if in their judgment such properties will be benefited thereby, and shall report the same to the said court. The total assessments for benefits shall not exceed the total damages awarded or agreed upon.

37. The compensation of said viewers shall be two dollars per day for each day employed in their duties.

38. Upon the report of said viewers, or any two of them, being filed in said court, any party may, within thirty days thereafter, file exceptions to the same; and the court shall have power to confirm said report, or to modify, change or otherwise correct the same, or change the assessments made therein, or refer the same back to the same or to new viewers, with like power as to their report; or, within thirty days from the filing of any report in court, any party whose property is taken or injured may appeal and demand a trial by jury, and any party interested in any assessment of damages or benefits may, within thirty days after a final decree, have an appeal to the Supreme Court. The said court of quarter sessions shall have power to order what notices shall be given in connection with any part of said proceedings, and may make all such orders as it may deem requisite.

39. After the passage or approval of any ordinance by said board of commissioners, for the opening, widening, straightening, extending, or vacating, or improving any road, street, or alley, notice shall, within ten days thereafter, be given by hand bills, posted in conspicuous places along the line of the proposed improvement which notice shall state the fact of the passage or approval of the ordinance and the date of the passage or approval.

7 June 1901 § 3.
P. L. 510.

Schedule.

Ibid. § 4.

Assessment of
damages and
benefits.

Ibid.

Compensation.

Ibid. § 5.

Exceptions to re-
port.
Powers of the
court.

Appeal.

Jury trial.

Appeal to Su-
preme Court.

Ibid. § 6.

Notice of passage
of ordinance.

III. Speedways.

40. Any board in any city of the first class, vested with the power to regulate grounds for the health and enjoyment of the people, under any special act of Assembly, is hereby authorized to set apart or aside any roadway or drive therein, for the use of horses and vehicles at such rate of speed as may be prescribed by said board, and no limit of speed prescribed by any special act shall thereafter apply to such roadway or drive so established.

28 Feb. 1901.
P. L. 15.

Establishment of
speedway in
Philadelphia.

IV. County Roads.

41. The several counties of this Commonwealth shall have the power and they are hereby authorized, whenever the commissioners or a majority of them shall, by resolution duly adopted, deem it expedient so to do, and upon approval thereof by a grand jury and by the court of quarter sessions as hereinafter provided, to cause any particular main or public road or highway or section thereof in such county to be improved under the provisions of this act, and for that purpose they are hereby authorized and empowered to re-locate, open, straighten, widen, extend, alter and construct the same, and to vacate so much of any road as may be thereby rendered unnecessary and useless in the manner hereinafter provided, and any road or highway constructed and improved under the provisions of this act shall forever thereafter be a county road, and the duty of maintaining and keeping the same in repair shall devolve upon the county, and the expense thereof shall be paid by the county as hereinafter provided. (a)

26 June 1905 § 1.
P. L. 386.

County commis-
sioners may
cause county
roads to be es-
tablished and
improved.
After approval
by grand jury.

(a) This act is constitutional; there is no warrant in this act for a decree which leaves the particular road to be improved, to be de-
termined afterwards by the county commis-
sioners. *Middletown Road*, 15 Sup. Ct. 167.

20 June 1896 § 2.
P. L. 336.

Commissioners shall cause surveys, etc., of road to be made, showing improvements, etc.

Also showing vacation of any road.

Shall present plans, etc., and petition to court.

Publication of notice describing line of proposed improvement, etc., and when application will be presented to grand jury.

Grand jury shall certify approval to court.

Exceptions.

When court shall order improvement to be made.

When re-location or alteration is completed, order shall remain absolute.

Ibid. § 3.

May enter on private or public property to make surveys, etc.

Ibid. § 4.

Proceedings to fix damages for property taken, etc., when amount is agreed upon.

Payment of damages.

Ibid. § 5.

Proceedings to fix damages when amount cannot be agreed upon.

Court shall appoint three viewers.

Viewers shall give ten days notice of meeting.

42. Whenever the commissioners of any county shall resolve to improve any public road or highway in accordance with the provisions of this act, they shall cause to be prepared surveys and plans of said road or highway, and the proposed improvement thereof showing any re-location, straightening, widening, extension or alteration thereof, together with an estimate of the cost and expense of the same, and also showing the vacation of any road or part thereof rendered unnecessary or useless thereby, and shall thereupon present such surveys, plans and estimate, or a copy thereof, together with their petition, to the court of quarter sessions of the county and upon filing thereof the said court shall direct notice to be given of the same, substantially describing the line of the proposed improvement, by publication at least once a week for three consecutive weeks in at least two newspapers of general circulation, published in the county wherein said proposed improvement is to be made or constructed, and of the time when the said application will be laid before the grand jury; and after advertisement, as aforesaid, the said court shall cause the said application to be laid before the grand jury, when in session, and if a majority of said grand jury, after a full investigation of the matter by the grand jury, shall approve of the same they shall certify their approval to the court, whereupon the court shall fix such time for filing exceptions to said proceedings as the court shall deem proper, and upon hearing thereof the said court may, for cause shown, disallow said application, but if no sufficient cause be shown to the contrary said application shall be approved and said court shall thereupon order that said improvement shall be made and constructed in accordance with the plans and surveys accompanying the said application, and thereupon any re-location opening, straightening, widening, alteration or vacation of any road as set forth in said proceedings shall remain absolute.

43. For the purpose of making all necessary preliminary surveys in order to prepare such plans and estimates, the commissioners of the several counties of this Commonwealth and the persons by them employed for such purposes shall, and are hereby given the right to enter upon private or public property and designate, by proper marks upon the ground, the line of any improvement proposed to be made and constructed under and for the purpose authorized in section one of this act. (b)

44. When said application, surveys and plans shall have been finally approved by such court, and said public improvement ordered to be made as aforesaid, the said county commissioners, or a majority of them, shall endeavor to agree with the persons or parties interested in the properties affected thereby as to the damages, if any, sustained or which seem likely to be sustained by reason of the taking, injuring or destroying such property, and upon agreement being made the said commissioners shall report the same to such court showing the amount of damages agreed to be paid and the names of the persons or parties to whom the same are payable, and upon the approval thereof by such court the said damages shall be payable by said commissioners out of the moneys specially raised for such purposes in the manner hereinafter provided.

45. In case the said commissioners, or a majority of them, and the parties interested in the land upon which such public improvement shall or is to be made and constructed, as aforesaid, fails to agree upon the compensation to be made for the property so taken, injured or destroyed by reason of such improvement, then, upon petition of such commissioners, or a majority of them, or any person or parties interested in said proposed improvement and whose property or land is affected thereby, to a court of common pleas of said county, the said court of common pleas shall appoint three disinterested freeholders, residents of the county aforesaid, as viewers, and appoint a time not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the line of the proposed improvement and view the same and the properties affected thereby. The said viewers shall give at least ten days' notice by publication in the newspapers aforesaid, of the time and place of their first meeting, and shall also give notice thereof by hand bills posted in conspicuous places along the line or in the vicinity of the said proposed improvement.

(b) As to the necessary requirements in a proceeding to improve a road under this act, see *Delaware River Road*, 18 C. C. 165.

46. The said viewers having been sworn or affirmed faithfully, justly and impartially to decide and true report make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire under the provisions of this act, and having viewed the properties connected with and affected by the said proposed improvement shall hear all parties interested and their witnesses, and having due regard to the advantages and disadvantages, shall estimate and determine the damages, if any, for the property taken, used or appropriated, and to whom the same are payable; they shall give at least ten days' notice thereof, in the manner herein provided, to all parties interested, of the time and place when said viewers will meet and exhibit their report and hear any exceptions thereto; after making whatever changes are deemed necessary and proper, said viewers shall make report to the said court showing the damages, if any allowed, and file therewith a plan showing the properties acquired, taken, used and appropriated for the purposes aforesaid, and the names of the persons or parties to whom such damages are payable. The said viewers shall have the right to adjourn from day to day as may be found necessary, and to administer oaths to all parties and witnesses appearing before them and desiring to be heard upon all matters connected with the construction, maintenance, repair, alteration, change or extension of the improvements aforesaid. In making any such improvements it shall be lawful to enter upon, take and use whatever land may be necessary for the proper slopes, fills, embankments and culverts, the damages therefor, if any, shall be taken into consideration and determined and reported by the said board of viewers in the manner herein provided.

47. Whenever, by reason of the opening, widening, straightening or extending of any such road or highway, or any part thereof, any part of the road or highway so opened, extended, straightened or widened, any road or highway or part thereof shall hereby become useless and vacated, and the property of one owner shall intervene between the new road or highway and the lands of another having no other outlet, it shall be the duty of the said county commissioners to obtain from the owner of said intervening property and the owner of the said contiguous or adjoining land, an agreement for the transfer thereof from one to the other upon terms satisfactory to such parties, and said county commissioners if the parties shall not agree to the transfer of the properties so intervening upon the said new road, as aforesaid, and any such lot or piece of land in the opinion of the said county commissioners be insufficient for building purposes, it shall be taken and used as part of said road or highway.

48. All damages found, awarded or sustained for or on account of the improvement of any public road under the provisions of this act, and all cost and expense thereafter incurred in repairing and maintaining such improved road shall be paid from funds raised by taxation as hereinafter provided and authorized.

49. The viewers provided for in the foregoing sections may be appointed before or at any time after the entry, taking, appropriation or injury of any private property used and acquired in said improvements. The costs of the said viewers and all court costs incurred, including all advertising and notices shall be paid by the said county, and each of said viewers shall be entitled as compensation to a sum not exceeding five dollars per day for every day necessarily employed in performing the duties herein prescribed.

50. Upon the report of said viewers, or a majority of them, being filed in said court, any party in interest may within thirty days thereafter file exceptions to the same, and the court shall have power to confirm said report or to modify, change or otherwise correct and amend the same or refer the same back to the same or new viewers with like power as to their report, or within thirty days after the filing of any report in court, the county commissioners on behalf of the county or any party whose property is taken, injured or destroyed may appeal therefrom and demand a trial by jury, and any party so interested may, within thirty days after final decree and confirmation of said report by said court, have an appeal to the Supreme Court. The said court of common pleas shall have power to order and direct what notices shall be given in connection with any part of said proceedings and make such orders as it may deem requisite in the premises. For the purposes of this act it shall be lawful for a majority of the said board of viewers to hear, determine, pass upon and report all matters

25 June 1855 § 6.
P. L. 326.

Viewers shall be sworn.

Shall view properties and hear parties interested.

And estimate damages.

Shall give ten days notice of time for hearing exceptions to report.

Shall make report to court.

Contents of report.

Viewers may adjourn from day to day.

May administer oaths.

May enter upon and use lands necessary for embankments, etc.

Damages for same.

Ibid. § 7.

When any part of a road shall become useless and vacant.

Or land is cut off from road, commissioners shall arrange for transfer of land.

Ibid. § 8.

Damages shall be paid from funds raised by taxation.

Ibid. § 9.

When viewers may be appointed.

Costs to be paid by the county. Compensation of viewers.

Ibid. § 10.

Exceptions to report of viewers. Court may confirm change or refer back the report.

Trial by jury may be demanded.

Appeal to Supreme Court.

Court shall direct the notices to be given.

Orders.

Majority of viewers may act.

- 26 June 1895 § 10.
P. L. 336.
- Ibid. § 11.
- When proposals for construction of road shall be invited by commissioners. Publication of notice letting of contract.
- Notice shall also be posted.
- Awarding of contract.
- Bonds.
- Surety company may become security.
- Ibid. § 12.
- Commissioners shall have plans, etc., prepared. Shall invite proposals for maintaining roads, etc.
- Ibid. § 13.
- May employ persons to make plans, etc.
- Compensation.
- Ibid. § 14.
- Maximum amount of tax levy for road improvements under this act.
- Warrants for payment of money for road improvements, etc.
- Ibid. § 15.
- Procedure when new road shall pass through or injure buildings.
- (c) Where the county appealed from an award of viewers, and demanded a jury trial under this section, and the jury awarded the claimant six and one quarter cents damages.
- it was held, that the county was not liable to pay the claimant's costs and witness bill. *Dollman v. Allegheny County*, 27 C. C. 536.
- In this act relating to said viewers, but all said viewers shall act unless prevented by sickness or other unavoidable cause. (c)
51. After said surveys and plans and the aforesaid application to the court of quarter sessions shall have been approved by the court, and the said public road or highway as decreed by said court of common pleas ordered to be made and constructed in accordance therewith, the commissioners, or a majority of them, of the respective counties wherein said improvement is made or to be made and constructed shall invite proposals for the making and constructing of the same, by publication in at least two newspapers of general circulation published in said county, or if no newspaper be published in said county, then in a newspaper or newspapers published in the county adjoining, once a week for four consecutive weeks, fixing a time therein when such proposals will be opened and the contracts therefor awarded; in addition to the notices so ordered to be given by publication, there shall be posted in the office of the said commissioners of the respective counties, like notice as those now given inviting proposals for the construction and repair of public roads and bridges; the contract as aforesaid shall be awarded by the said commissioners, or a majority of them, to the lowest responsible bidder. No contract shall be awarded for any of said public work until proper bonds shall be given for the faithful performance thereof by the person or persons to whom the same shall be awarded, with proper security to be approved by said commissioners, or a majority of them. Any incorporated company doing business within any of said counties authorized by law to become security for persons or corporations may be taken and accepted as surety upon the bonds herein required to be given.
52. Said commissioners shall have prepared plans and estimates as often as required for the repair and maintenance of all public roads or highways which may hereafter be improved under the provisions of this act, and become county roads in their respective counties; they shall invite proposals for repairing and maintaining such roads or parts thereof, in accordance with such plans and estimates, and award the contract therefor in like manner as contracts for the new improvements aforesaid.
53. For the purpose of performing all necessary duties relating to the improvement and repairs of public roads herein authorized, the said county commissioners, or a majority of them, of the several counties of this Commonwealth are hereby authorized to employ or appoint proper persons to prepare said surveys, plans and estimates and do all necessary and proper work connected therewith, and shall fix the compensation of all persons so employed.
54. The said commissioners, or a majority of them, of the several counties of this Commonwealth are hereby authorized to levy, assess and collect an annual tax of not more than two mills upon the dollar, upon all real and personal property within said county, now or hereafter taxable for county purposes for the purpose of acquiring and securing a fund from which to pay all costs, damages and expenses required in locating, opening, widening, straightening, extending, maintaining, repairing or vacating of the roads and highways or parts thereof improved under the provisions of this act, and for the taking, using and enjoying of such land as may be made necessary in constructing and maintaining proper slopes, embankments, fills and culverts, and the moneys so raised shall not be used or expended for any other purpose than that named in this section. All warrants for the payment of any portion of the money raised for the purposes aforesaid shall be issued by the said commissioners, or a majority of them, in the manner now provided by law in the several counties upon estimates which shall be made from time to time by the person charged with such duty, and the amount and time within which the same shall be paid shall be fixed and determined in the contract made for the public work herein authorized.
55. Whenever in locating, re-locating, opening, widening, straightening or extending any road or highway or parts thereof, under the provisions of this act, the same shall be found to pass through, take or injure buildings, barns or other valuable improvements thereon, the said viewers or a

majority of them shall have the right to recommend that such buildings and improvements, situate in part or in whole on the road or highway so to be improved, opened, widened, straightened or extended shall be permitted to remain thereon for such time as shall be deemed wise and proper, and if the court shall approve the finding and report of said viewers, or a majority of them, the owner or owners of such building or improvements may continue to use and enjoy the same during the time by such viewers and the court fixed and determined. But in case of the destruction, vacation or abandonment of any such building within the time they are so authorized to remain, such owners or owner shall not have the right to re-erect and reconstruct or retake such buildings or improvements within the line of such county, road or highway.

56. All such roads and highways, and all parts thereof, improved in accordance with the provisions of this act shall be deemed, taken and treated as and become public highways of the said county, and shall be subject to the control and supervision of the proper county commissioners; and it shall be the duty of said several counties to keep, maintain and repair the same whenever and as often as it shall be found necessary, and all road supervisors, authorities, persons or townships heretofore required to maintain and keep in repair such roads or parts thereof, shall thereupon and thereafter cease to have any management of or control over said roads, or any part thereof, and such supervisors, authorities and townships are hereby relieved from all duty and responsibility in and about the care, maintenance and repair of all roads improved under this act and becoming county roads; and all other public roads shall continue under the control of the proper local authorities and shall be opened, repaired and maintained under the laws now in force in the respective townships of the several counties of this Commonwealth.

57. Any county in this Commonwealth may, for the cost of building, improving and repairing of any part of the roads in said county, now constructed or hereafter to be constructed, under the provisions of an act, entitled "An act providing for the permanent improvement of certain public roads or highways in the several counties of this Commonwealth; making such improved roads and highways county roads; authorizing the relocation, opening, straightening, widening, extension and alteration of the same, and the vacation of so much of any road as may become unnecessary; authorizing the taking of property for such improvement, and providing for the compensation thereof, and the damages resulting from such taking; providing for the payment of the costs and expenses incurred in making such improvements, and in thereafter repairing and maintaining said roads, and authorizing the levy of a tax to provide a fund for said purposes," approved June twenty-sixth, Anno Domini one thousand eight hundred and ninety-five, (P. L. 336) and the said county commissioners are hereby authorized, and it shall be lawful, to borrow money, and secure any indebtedness created by them for the purpose of building improving and repairing the public roads and highways, now constructed or to be constructed hereafter, as aforesaid, by issuing bonds, not to exceed in the aggregate one (1) per centum of the total of the assessed value of all property for taxable purposes in said county, at the last preceding triennial valuation; but no such bond or indebtedness shall bear interest at a rate not exceeding four per centum per annum.

58. The said county commissioners shall not issue bonds, in any one year, to an amount exceeding one-tenth of one per centum of the total valuation of all property for taxable purposes in said county, as shown by the last triennial assessment in any county issuing bonds under the provisions of this act.

59. All acts of Assembly or parts of acts inconsistent herewith be and the same are hereby repealed.

20 June 1895 § 15.
P. L. 336.

Ibid. § 16.

Improved roads shall become county roads.

Duty of counties to repair.

Supervisors and townships relieved from responsibility.

10 July 1901 § 1.
P. L. 631.

County commissioners authorized to borrow money and issue bonds, for building and improving county roads. Limit of bond issue.

Rate of interest.

Ibid. § 2.

Annual limit.

Ibid. § 3.

Repeal.

V. Constructing and Improving Highways—Road Taxes.

60. In all cases where public roads or parts thereof, in townships of this Commonwealth, connecting a city with a city, a city with a borough, or a borough with a borough, shall have become inconvenient and burdensome, and shall require altering and widening, or either altering or widening, to meet the requirements of public travel thereon, it shall be lawful for the court of

3 April 1903.
P. L. 137.

Altering and widening public roads in townships connecting cities and boroughs.

<p>8 April 1903. P. L. 137.</p> <p>Power of quarter sessions. Width.</p> <p>Damages and benefits.</p> <p>Jury may assess costs to cities and boroughs.</p> <p>Use of road by corporation.</p>	<p>quarter sessions, by the same process now provided for opening and laying out public roads, to alter and widen, or either alter or widen, such roads, vacating such part or parts of the said old roads as are rendered useless by such alteration: Provided, That upon a petition, the width of the road so widened shall be fixed by the court, on recommendation of the viewers, and damages, taking into account benefits conferred, shall be awarded and paid, according to the provisions of the act of June thirteenth, one thousand eight hundred and thirty-six, and its supplements: Provided further, That, in addition to the powers conferred upon the viewers by this act, they are hereby authorized and shall assess the cost of such widening and altering, or either widening or altering, of such road, to the respective cities and boroughs, or city and borough and townships, or township, as the case may be, in such proportion as to them may seem equitable and just, taking into consideration benefits derived by such widening and altering, or either widening or altering, to the cities or boroughs, or city or borough and townships, or township, connected by and through which said such road may pass; and in case such widening or altering, or either, is made necessary in part by the use of such road by a corporation, or corporations, then the viewers shall have further power to assess such corporation, or corporations, such part of the cost of widening and altering, or either, as the viewers may agree that is just and reasonable.</p>
<p>21 May 1901. P. L. 288.</p> <p>Construction of public roads leading to either end of a county bridge.</p>	<p>61. When a public road is laid out and confirmed by the court, and not opened, leading to either end of a county bridge, across any river in this Commonwealth, upon a petition of citizens of the city, town, borough or township through which the said road is located, setting forth that the expenses of the construction is too burdensome to the taxpayers of the said city, town, borough or township, that thereupon the court of quarter sessions of the proper county may, upon the filing of the said petition, order the county commissioners to prepare plans of said public road, not exceeding one-fourth mile in length, from the end of such bridge, which plans shall be submitted to the court, and such time shall be fixed for filing exceptions to said proceedings as the court shall deem proper; and if no sufficient cause be shown to the contrary, the said court, upon approval thereof, shall then authorize the county commissioners to construct the said road, according to the plans and survey accompanying said proceedings; and upon the approval of the same by the county commissioners, or a majority of them, they shall proceed to open such road at the expense of the county: Provided, That the term "river" in this act shall mean any stream of water ten hundred feet wide, or over.</p>
<p>Meaning of term "river."</p> <p>10 July 1901 § 1. P. L. 637.</p> <p>Grading, paving etc., of streets, etc., between borough and first class townships.</p>	<p>62. Adjoining boroughs and first class townships of this Commonwealth shall have power to grade, pave and curb or macadamize, and to enter into agreements with each other for the grading, paving and curbing or macadamizing of, by joint contract, streets and alleys which may be in whole or in part of the boundaries between such municipalities; and to provide in such contract that the damages, costs and expenses of said improvements shall be divided between such municipalities in the proportion and manner agreed upon. (a)</p>
<p>Ibid. § 2.</p> <p>Petitions to borough councils.</p> <p>Affidavit.</p> <p>Borough damages, costs and expenses.</p>	<p>63. In grading, paving and curbing or macadamizing any street or alley, under the provisions of this act, which may be in whole or in part in the boundaries as aforesaid, boroughs shall exercise the power herein conferred, upon petition of the councils by a majority of the property owners in interest and number, abutting the portion of the line of the proposed improvement within the borough limits, to be verified by the affidavit of one or more of the parties to said petition (a majority in interest of owners, or undivided interests in any piece of property, to be deemed and treated as one person for the purposes of petition) asking that such improvement be made; and the portion of the damages, costs and expenses agreed to be paid by any borough shall be ascertained, and the benefits incident thereto shall be assessed and collected, in manner now provided by law for the payment of costs, damages and expenses of public improvements within municipal corporations in this Commonwealth: Provided, That boroughs may agree to pay any part of the costs, damages and expenses of such improvements out of the general funds.</p>
<p>Ibid. § 3.</p> <p>Township damages, costs, etc.</p>	<p>64. The portion of the damages, costs and expenses, when any street or alley which may be in whole or part the boundary between a borough and</p>

(a) See *Pepper & Lewis' Digest of Decisions*, vol. 12, col. 21187; Vol. XVII., col. 28968, 28976.

first class township is improved by contract under the provisions of this act, agreed to be paid by any first class township, shall be ascertained in like manner and by the same viewers appointed to ascertain the borough's share, but shall be paid out of the general funds of such township.

65. All acts and parts of acts of Assembly of this Commonwealth in conflict herewith be and the same are hereby repealed.

66. Any person liable to road tax, who shall transplant to the side of the public highway on his own premises any fruit, shade or forest trees, of suitable size, shall be allowed by the supervisor of roads or boards of supervisors of roads, where roads run through or adjoin cultivated fields, in abatement of his road tax, one dollar for every two trees set out; but no row of elms shall be placed nearer than seventy feet; no row of maples or other forest trees nearer than fifty feet, except locust and Carolina poplar, which may be set thirty feet apart, and except fruit trees, which may be set forty feet apart; and no allowance as before mentioned shall be made unless such trees shall have been set out the year previous to the demand for such abatement of tax, and are living and well protected from domestic animals at the time of such demand.

67. Any fruit, shade or forest trees growing naturally by the side of the public highway, where said public highway runs through cultivated lands, shall be allowed for in the same manner and on the same conditions as in the preceding section.

68. Any trees transplanted by the side of the public highway, as aforesaid, in the place of trees that have died, shall be allowed for in the same manner and on the same conditions as in the first section of this act.

69. No person shall be allowed an abatement, as aforesaid, of more than one-quarter of his said annual road tax.

70. Any person who shall cut down, kill or injure any living tree, planted or growing naturally as aforesaid, or who negligently or carelessly suffers a horse or other domestic animal, driven by or for him, to injure any of the trees hereinbefore mentioned, upon conviction thereof shall be subject to a penalty of not less than one dollar, nor more than five dollars, with costs of suit, for each and every tree so cut down, killed, removed or injured: Provided, That if the defendant or defendants neglect or refuse to pay at once the penalty so imposed and costs, or shall not enter sufficient bail for the payment of the same within ten days, he or they shall be committed to the common jail of the county in which the offense was committed, for a period of not less than one day for each dollar of penalty imposed and costs: Provided, however, That the owner of the land upon which the trees are growing and upon which said abatement has been granted, may remove such trees, on condition that he will immediately plant and maintain another tree, or trees, in the place or places of those removed by him or refund to township said abatement, originally allowed for said tree or trees.

71. All moneys collected as a penalty in accordance with section five of this act, shall be paid to the supervisors of roads or boards of supervisors of roads, and form part of the road fund of the township in which the offense was committed.

72. It shall be the duty of the supervisor of roads or the boards of supervisors of roads to keep a permanent record, in a book especially prepared for that purpose, and which book shall be the property of the township, of all trees upon which the said abatement, as hereinbefore mentioned, has been granted; and when any tree or trees have been removed, with or without the consent of the supervisors of roads or boards of supervisors of roads, the date thereof shall be distinctly entered in the said book.

73. The act approved the second day of May, Anno Domini one thousand eight hundred and seventy-nine, entitled "An act to encourage the planting of trees along the roadsides in this Commonwealth," is hereby repealed.

74. From and after the passage of this act, the township supervisors and road commissioners of the several townships within this Commonwealth shall, by contract or otherwise, remove and take away the loose stones from the traveled roads or highways in such township, at least once each month, during the months of May, June, August and October, in each year.(a)

10 July 1901 § 9.
P. L. 637.

Ibid.

Repeal.

2 July 1901 § 1.
P. L. 610.

Planting of trees along roadside to entitle one to an abatement of road tax.
Distances.

Ibid. § 2.

Trees growing naturally.

Ibid. § 3.

Replacing trees which have died.

Ibid. § 4.

Limit of abatement.

Ibid. § 5.

Injury to trees growing along roadside.
Fine.

Penalty.

Removal of trees by owner.

Ibid. § 6.

Disposition of fines.

Ibid. § 7.

Record to be kept.

Ibid. § 8.

Act 2 May 1879,
P. L. 47, repealed.

2 July 1901 § 1.
P. L. 611.

Township officers to provide for removal of loose stones in certain months.

(a) This is an amendment of the act 2 May 1899, § 1, P. L. 164.

2 July 1901 § 2.
P. L. 611.

Penalty in case
of neglect or re-
fusal.

2 May 1899 § 2.
P. L. 164.

May delegate au-
thority to path
masters.

Compensation to
be credited on
road tax.

75. In case the neglect or refusal of the supervisors or road commissioners to carry out the provisions of the first section of this act, shall forfeit and pay for every such offense, neglect or refusal a fine or penalty not exceeding ten dollars, to be recovered by action of debt, in the name of the Commonwealth, before any justice of the peace or alderman of the county, with costs of suit. One-half of such fine to go to the informer or prosecutor, and the other one-half to be applied to repairing the roads or highways of the township.

76. The supervisors or road commissioners, as aforesaid, may delegate the authority conferred by this act to the path masters, and in any case the compensation allowed to the person or persons performing said work shall be made by crediting the amount upon the road tax assessed against them.

VI. Township Supervisors—Road Taxes—Repairing Roads.

23 June 1897 § 1.
P. L. 194.

Election of town-
ship supervisors.

Ibid. § 2.

Time of meeting.

Shall be sworn.

Organization,
etc.

Rate of road tax.

How greater rate
may be levied.

Every taxable
shall be assessed
one dollar.

Ibid. § 3.

Certain propor-
tion of tax to be
paid in cash.

Ibid. § 4.

Duty of road
supervisors.

Duty of road-
masters.

Road masters
may be required
to give bond.

Road supervisors
shall fix wages.

Ibid. § 5.

Road supervisors
shall have full
control of road-
masters, laborers
and machinery.

77. In every township of this Commonwealth the qualified voters thereof shall, on the third Tuesday of February, one thousand eight hundred and ninety-eight, elect one person to serve one year, one person to serve two years, and one person to serve three years, who shall be styled road supervisor, and at each township election thereafter they shall elect one person to serve three years: Provided, That in any township which now has three supervisors or other officers having charge of roads elected under existing laws, no new election under this section shall be required except as the terms of said road officers expire.^(a)

78. The road supervisors of each township shall meet, at the place where the auditors of the respective townships meet to perform their official duties, on the first Monday of March, one thousand eight hundred and ninety-eight, and yearly thereafter, and after being duly sworn or affirmed according to law to discharge their duties with fidelity, a copy of the oath to be filed with the township auditors, shall organize as a board by electing one of their number as chairman and one as secretary, and shall appoint one person as their treasurer, who shall not be a member thereof, and shall proceed immediately to levy a road tax which shall not exceed ten mills on each dollar of valuation; this valuation shall be the last adjusted valuation for county purposes, and which shall be furnished to said road supervisors by the commissioners of the proper county: Provided, That a greater rate than ten mills, and not to exceed ten additional mills, may be levied by order of the court of quarter sessions of the peace of that county upon the petition of the board of supervisors, with their unanimous recommendation, and upon due cause shown: And provided further, That upon every taxable, the road supervisors of each township shall assess the sum of one dollar in addition to the millage tax above mentioned.

79. A certain proportion, not less than one-fourth and not to exceed one-half, of the road tax levied upon any taxable person, shall be paid in money, and the balance may be paid in work, subject to the regulations and conditions hereinafter specified.

80. It shall be the duty of the board of road supervisors, immediately after their organization as a board, to divide their township into road districts of not less than five miles of road to each district, and they shall employ a road-master for each district, whose duty it shall be to work upon the roads himself, and to see that the work done on the roads in his district or division is in accordance with plans and specifications furnished him by the road supervisors, to oversee the men employed while at work on the roads, and keep the time of each man working under him, and report under oath to the road supervisors as often as they require. Road supervisors may require the road-masters to give bond with approved security for the faithful performance of their duties, and said road-masters shall at all times be subject to removal by the board of road supervisors. The road supervisors from time to time shall fix the wages to be paid per hour to road-masters and laborers for work on the roads and bridges.

81. The board of road supervisors shall have full control of road-masters and employment of laborers, and is authorized also to purchase such

(a) See *Comm'th v. McComsey*, 12 Dist. Rep. 39.

material, scrapers, plows, stone-crushers, rollers and other road-machines, tools and property, as shall in its judgment be necessary for making and repairing roads and bridges; the same to be the property of the township, used exclusively for township purposes, and to be properly taken care of by said board of road supervisors. And the board of road supervisors may, if it is deemed to be for the best interest of the taxpayers of the township, let by contract to the lowest and best bidder, the making of new roads, or repairing of roads, or building of township bridges, or macadamizing or otherwise improving roads, or any part thereof, reserving the right to reject any or all bids. Notice of all such lettings shall be given at least three weeks before the same shall take place, either by advertisement in at least two weekly newspapers of general circulation, published in the county, if so many shall be published therein, or by hand bills put up in at least twenty of the most public places in the township, designating the time and place of such lettings. Said board of road supervisors shall require bonds from the contractors, with approved security in double the amount of the contract price, conditioned for the faithful performance thereof: Provided, Such contracts for maintenance and repairing shall not continue for more than three years.

82. Said road supervisors are hereby authorized to join with the road supervisors of one or more of the other townships, or the proper authorities of boroughs in their respective counties, in the purchase of such road making implements and machines as in their judgment may be too expensive to justify such purchase by said township alone; the same to belong to such townships or boroughs in proportion to the amount paid therefor by each, and the right to use the same to be regulated by agreement to be made between said road supervisors or borough authorities at the time of joining in said purchase: Provided, That said joint ownership shall only continue during such period as may be agreeable to all of said joint owners, and either board of road supervisors or borough authorities may at any time elect to sever said joint ownership as to any or all of said implements and machines. In case terms cannot be amicably agreed upon, either of said joint owning townships or boroughs may, by its board of supervisors or proper borough authorities, present its petition to the court of quarter sessions of the peace, setting forth the facts, verified by affidavit, which court, after notice and opportunity to be heard, shall then make such order for the sale or disposal of said joint property as will be right and proper in such case.

83. The treasurer appointed by the board of road supervisors shall be required to give bond, with at least two sufficient sureties, to be approved by the auditors of the township, conditioned that the said treasurer shall well and truly account for and pay over all moneys collected and received by him for road purposes according to law, and such bond shall be filed with the township auditors. He shall pay out moneys received by him as road taxes only on the written order of the road supervisors, setting forth the purpose for which the order is given, signed by the chairman of the board and attested by the secretary thereof.

84. The road supervisors of each township shall make or cause to be made a duplicate designating the amount of road tax levied against each taxpayer of the township, stating the sum to be paid in money and the amount to be paid in work, and deliver the same to their treasurer, who shall, within ten days after receiving said duplicate, give a written notice to all taxable persons of the amount of money and work tax that has been assessed against them, and shall also give him a warrant to collect the money tax, which shall be collected as follows, namely: To all taxpayers who pay their road tax before June first of each year to the treasurer, an abatement of five per centum shall be made; on all road taxes paid to the treasurer between June first and November first of each year, the taxpayers will be required to pay the full amount of the money road tax levied against them, and on the first of November in each year the treasurer shall make out a list of all delinquent taxpayers, with the amount of the balance of the road tax levied against each, including both money and work tax, with five per centum added thereto as a penalty for such delinquency, and deliver the same to the township collector, who shall immediately proceed to collect the same in money and make payment thereof to the treasurer of the board as soon as received, and the collector shall be responsible to the township for the

23 June 1897 § 5.
P. L. 194.

May let contracts for making or repairing roads.

Notice of letting to be published.

Contractors shall give bond.

Ibid. § 6.

Supervisors may join other authorities in purchase of machinery, etc. Ownership of said machinery, etc.

Where terms of joint ownership cannot be agreed upon.

Court of quarter sessions may order disposal.

Ibid. § 7.

Appointment of treasurer and qualifications.

Conditions of bond.

Duty of treasurer.

Ibid. § 8.

Duplicates to be made and delivered to treasurer.

Notice to be given.

Five per centum deducted if taxes are paid before June 1st.

Full amount to November 1st.

Five per centum to be added after November 1st.

Duty of township collector.

23 June 1897 § 8.
P. L. 194.

Compensation of collector.

Compensation of treasurer.

Ibid. § 9.

Taxables may work out part of road tax.

Under direction road master.

Road-master shall make return.

Ibid. § 10.

Failure to work shall be regarded as waiver of right to do so.

If tax is not worked out by November 1st, balance shall be paid in money.

Ibid. § 11.

Grade of roads.

Ibid. § 12.

Meetings of the road supervisors. Compensation and necessary expenses, etc.

Ibid. § 13.

Filling of vacancy in board of road supervisors.

Ibid. § 14.

Annual statement to township auditors. Duty of auditors.

Ibid. § 15.

Shall report annually to Secretary of the Department of Agriculture. Contents of report.

Duty of prothonotary to furnish blanks to said supervisors.

Ibid. § 16.

Road supervisors shall keep minutes and books.

collection of such tax, and shall receive for his services the five per centum in penalty added. The treasurer shall receive as compensation for his services such amount as the board of road supervisors may prescribe, not exceeding five per centum of all moneys received and distributed by him.

85. Every taxable shall have the privilege of working out the work part of his road tax, and the road-master of his district shall give him five days' notice of the time and place for the performance; and upon such notice he may perform the labor under the personal direction of the road-master, which labor must be satisfactory to the road-master, under penalty of discharge and forfeiture of right to work out the tax. The road-master shall make return of the amount of labor thus performed to the road supervisors, who shall credit the said taxable with the same on account of his said tax.

86. Failure on the part of any taxpayer, after five days' notice to work upon the roads or bridges, after having been properly notified of the time and place, shall be regarded as a waiver of his right so to do, and the whole amount shall be collectible in money under the same conditions as are prescribed for the collection of the money portion of the tax; and any taxpayer, having received such notice given him by the road-master, who shall fail to work out the entire work part of the road tax assessed against him before the first day of November in each year, shall be required to pay in money whatever balance may be still owing at that date, together with a penalty of five per centum added as in the case of cash tax.

87. No public road hereafter to be laid out shall be fixed at a higher grade than three degrees, except where it shall be deemed impracticable to open and maintain the same at that or a lower grade: Provided, No road shall be laid out unless at least ten days' previous notice in writing shall have been given by the road viewers to the board of road supervisors of the township in which the proposed road is to be located, stating the time and place of meeting for said view.

88. The road supervisors may meet for the transaction of business once each month, at a time to be fixed by the board, and each member shall receive for his services one dollar and fifty cents for each meeting so held and attended, and the board may be allowed for necessary expenses, including office rent, stationery, light and fuel, to be paid out of the township road funds.

89. In all cases where a vacancy occurs in the board of road supervisors from any cause, the court of quarter sessions of the peace of the proper county shall, upon the petition of the remaining members of the board, appoint a successor to fill the office until the next election for township officers: Provided, Such vacancy happens at least thirty days before; if less than thirty days, then until the next election thereafter for township officers, and until a successor is duly elected and qualified.

90. The board of road supervisors shall annually submit, under oath, to the board of township auditors, a full and itemized statement of their accounts of the preceding year, and the township auditors shall audit, settle and adjust said accounts in the same manner and with like effect as other accounts of township officers are audited and settled.

91. The board of road supervisors of the several townships shall annually, on or before the first Monday of March in each and every year, make a report to the Secretary of the Department of Agriculture, on blanks furnished to them by the Secretary of the Department of Agriculture, of the whole amount of money raised during the preceding year by taxation for road purposes, specifying in such report the amount expended for maintenance or repairs of roads, for opening and building of new roads, and for macadamizing or otherwise permanently improving roads, and the number of miles thus made, together with the names and addresses of the chairman and secretary of the board, and such other matters and things as the Secretary of the Department may require. And it shall be the duty of the prothonotary in each county, not later than the first day of January of each year, to forward the aforesaid blanks, furnished by the said Secretary of Agriculture, to the several boards of supervisors in that county.

92. The said board of road supervisors shall keep minutes of their proceedings and such books as they may find necessary in the performance of their duties, all of which shall be open for the inspection of any taxpayer at all reasonable times, and which shall be submitted for the information of

the township auditors when said auditors meet to audit the accounts of the treasurer and other township officers, and shall deliver such books, papers and accounts to their successors.

93. It shall not be lawful for any road supervisor to be interested, either directly or indirectly, in any work done, purchase made or contract relating to roads and bridges, nor to furnish any materials therefor. Any person knowingly violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine not exceeding five hundred dollars, or to be imprisoned for a term not exceeding six months, both or either, at the discretion of the court: Provided however, That supervisors shall have the same rights as other taxpayers to work out the road tax assessed against them.

94. If any road supervisor, road-master or contractor employed to work on the roads, bridges and highways of this Commonwealth, shall violate any of the provisions of this act, or shall fail, neglect or refuse to carry out the same, he shall pay a fine of not more than fifty dollars, to be collected in the name of the township as other debts of like amount, and paid to the township treasurer for the use of the road fund of said township.

95. The road supervisors of the several townships of this Commonwealth, elected or appointed in pursuance of this act, shall perform all the duties imposed by the existing laws on supervisors of roads, bridges and highways, and shall be subject to the same responsibilities and penalties that supervisors are now subject to, except in so far as changed or supplied by the terms of this act.

96. Two shall constitute a quorum of the board of supervisors.

97. The provisions of this act shall not go into effect until the sum of one million dollars has been appropriated by act of Assembly, or shall have been received in the State Treasury from taxes for road purposes, the same to be distributed under directions of the Department of Agriculture among the several townships of the State in proportion to the number of miles of public roads in each township: Provided, No township shall receive more of the aforesaid State money than is raised therein by local taxation, including work and money tax, and that the money so appropriated shall be expended in making and maintaining public roads.

98. All acts or parts of acts, general, special or local, inconsistent herewith or supplied hereby, be and the same are hereby repealed: Provided, however, That the act, entitled "An act enabling the taxpayers of townships and road districts to contract for making at their own expense the roads, and paying salaries of township or road district officers, and thereby preventing the levy and collection of road tax therein," approved June twelfth, one thousand eight hundred and ninety-three, and the act entitled "An act to provide for the permanent improvement of certain public roads or highways in the several counties of this Commonwealth, making such improved roads and highways county roads, authorizing the re-location, opening, straightening, widening, extension and alteration of the same, and the vacation of so much of any road as may therefore become unnecessary; authorizing the taking of property for such improvement and providing the compensation therefor and the damages resulting from such taking; providing for the payment of the costs and expenses incurred in making such improvement, and in thereafter repairing and maintaining said road, and authorizing the levy of a tax to provide a fund for said purposes," approved the twenty-sixth day of June, Anno Domini one thousand eight hundred and ninety-five, shall not be repealed hereby but shall continue in full force and effect.

23 June 1897 § 16.
P. L. 194.

Ibid. § 17.

Shall not be interested in contracts, etc.
Violation of this section declared a misdemeanor.
Penalty.

Ibid. § 18.

Road supervisors, masters or contractors violating act.
Penalty.

Ibid. § 19.

Duties and responsibilities of road supervisors.

Ibid. § 20.

Quorum.
Ibid. § 21.

When act shall go into effect.

Ibid. § 22.

Repeal.
Act of June 12, 1893, not repealed.

Act of June 26, 1895, not repealed.

VII. Snowdrifts.

99. In all cases where any of the public highways within this Commonwealth are so located as to render them liable, on account of high wind during the winter season, to be so filled with snow as to cause them to be impassable, and where, in the judgment of the supervisors of roads of the several townships in which such public highways are situated, such drifts of snow can be avoided by the removal of any board, rail or other fence that may be erected along either side of such public highways and replacing the same by a fence constructed of posts, wire and boards, or rail combined, it may be lawful for such supervisors to agree with the owners of such

26 May 1897.
P. L. 98.

Duty of township supervisor when roads are filled with snow.
Removal of board fences.

26 May 1897.
P. L. 98.
Construction of
other kind of
fences.
Supervisors may
pay cost of wire
for new fences.

fences upon a plan for the erection of a fence constructed of posts, wire and board, or rail combined. And it may be lawful for supervisors to pay the owners of such fences a sum not to exceed the first cost of the wire used in the construction of such fences: Provided, That the wire used in the construction of such fences shall be without barbs: Provided, That this act shall not apply to any stone wall, hedge or ornamental fence that is now or may be hereafter constructed.

VIII. Vacating Roads.

1 May 1901 § 1.
P. L. 110.
Vacation of
county roads,
improved under
the provisions of
act of June 26,
1896. P. L. 886.

100. Upon the petition of the county commissioners of any county, the court of quarter sessions of the county, with the approval thereof by the grand jury, may vacate as a county road any portion or portions of any road the permanent improvement whereof has been ordered, and made in whole or in part, under the provisions of an act of Assembly approved June twenty-sixth, one thousand eight hundred and ninety-five, and entitled "An act providing for the permanent improvement of certain public roads or highways in the several counties of this Commonwealth, making said improved roads and highways county roads, authorizing the relocation, opening, widening, straightening, extension and alteration of the same, and the vacation of so much of any road as may thereby become unnecessary; authorizing the taking of property for such improvement, and providing for the compensation therefor and damages resulting from such taking; providing for the payment of the costs and expenses incurred in making such improvements, and thereafter repairing and maintaining said road, and authorizing the levy of a tax to provide a fund for said purposes."

Ibid. § 2.
Township roads.

101. All portions of such roads, so vacated, shall become and be township roads.

IX. Review of Proceedings.

2 July 1901 § 1.
P. L. 607.
Review of pro-
ceedings of town-
ship road com-
missioners in
laying out open-
ing and vacating
roads.
Writ of certiorari.
Certified copy of
record.

102. Wherever the road commissioners of any township are by law invested with the authority and power to lay out, open or vacate public or private roads in their respective townships, or, in case of appeal, road commissioners from other townships than that in which the road lies, and no appeal to any court is otherwise provided for, it shall be lawful for the court of common pleas of the respective counties to issue a writ, in the nature of a writ of certiorari, directed to the commissioners of the township in which the road lies, and to the town clerk having in charge the record of such road, commanding that a certified copy of the record and all the proceedings had in the matter of laying out or vacating any road shall be forthwith sent to the said court, under the hand and seal of the said town clerk; and the said court may examine the same as to the regularity of the proceedings had, and the jurisdiction of the road commissioners, either of the township in which the road lies, or from other townships in case an appeal has been had; and if such proceedings are contrary to law, or if the return made to the town clerk by the road commissioners, either in laying out or vacating a road, is not according to law; or if the road commissioners are, for any reason, without jurisdiction, or for any reason incapacitated to act in the particular case, the said court shall set the said proceedings aside, either in whole or in part, and such proceedings shall then be void and of no effect so far as set aside. An appeal shall lie from the order of the court, either in confirming the proceedings or setting them aside, as in other cases. (a)

Procedure.

Proceedings may
be set aside.
Appeal from
order of court.

Ibid. § 2.
Rules of practice.
Costs.

Ibid. § 3.
Supersedeas.
Writ not to issue
after 30 days.

103. The court shall provide by appropriate rules the manner of issuing certiorari, the practice to be followed in disposing of the same, and shall direct who shall pay the costs of the proceeding on the certiorari.

104. The writ of certiorari issued in pursuance of this act shall be a supersedeas, but no such writ shall issue after thirty days after the report of the

(a) This act does not give the court of common pleas power, by mandamus to the reviewers, to cure fatal defects in their report. *Overton Township Road*, 12 Dist. Rep. 317. Upon certiorari to the common pleas under

this act, facts which show clearly that the township commissioners had no jurisdiction, or that their action was unlawful, may be shown de hors the record. *Frost v. Scott*, 12 Dist. Rep. 339.

road commissioners, of the township in which the road lies, or the report of the road commissioners of other townships in case of an appeal, has been filed with the town clerk.

2 July 1901 § 2.
P. L. 607.

X. Private Roads.

105. The several courts of quarter sessions shall, in open court as aforesaid, upon the petition of one or more persons, associations, partnerships, stock companies or corporations, for a road from their respective lands or leaseholds to a highway or place of necessary public resort, or to any private way leading to a highway, direct a view to be had of the place where such road is requested, and a report thereof to be made, in the same manner as is directed by the said act of thirteenth June, one thousand eight hundred and thirty-six. (a)

4 April 1901.
P. L. 66.

Proceedings to open private roads.

XI. Sidewalks and Side Paths.

106. The supervisors of any township in this Commonwealth be and they are hereby authorized, upon the request of any land owner whose land fronts upon a public highway within such township, to establish a proper width and location for a sidewalk along each side of said highway along the lands of said owner, which width of walk on each side of said highway shall not be less than six feet for roads fifty feet in width or less, and for roads in excess of fifty feet in width shall be ten feet in width, and that when said sidewalks are so established it shall be the duty of such land owner to pay for and keep the same in repair.

26 June 1885 § 4.
P. L. 336.

Township Supervisors may establish location for a sidewalk along highways.

Width.
Shall be kept in repair by owner of land.

107. Any person wilfully injuring or obstructing sidepaths constructed within this Commonwealth shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding ten dollars, or imprisonment in the county jail for a period not exceeding thirty days, or either, in the discretion of the court.

28 April 1899 § 1.
P. L. 78.

Wilfully injuring or obstructing sidepaths a misdemeanor.

108. All acts or parts of acts inconsistent herewith are hereby repealed.

Ibid. § 2.
Repeal.

XII. Bridges.

109. The county commissioners of the several counties of this Commonwealth are hereby authorized to take charge of or rebuild and reconstruct any bridge, over any stream or river running into or through any county, owned and maintained by corporations, where the same has been destroyed by ice or otherwise within ten years and abandoned by the owners of the said bridge, or where said bridge crosses a stream forming the boundary line between two counties, then the commissioners of the county in which said bridge is located or has been located, or the commissioners of the respective counties, where the stream or river runs between counties, are hereby authorized to jointly reconstruct and maintain such bridge as a county bridge, the costs and expenses of which joint construction and maintenance shall be paid by said counties respectively in the proportion of the population thereof as ascertained at the last census. If the said commissioners shall neglect or refuse to act as herein provided, upon the petition of ten citizens and taxpayers residing in the city, borough or township in which the bridge is or was located, which petition shall set forth all the facts supported by the affidavit of two of said citizens, to the court of common pleas of the county, and said court, upon hearing, may issue a mandamus compelling said commissioners to proceed as provided by this act: Provided, That this act shall not in any way affect any bridge heretofore erected or built or now in course of construction under the provisions of the act of June sixteen, one thousand eight hundred and ninety-one, amending the first section of the act of June eighth, one thousand eight hundred and eighty-one, but all such bridges shall be maintained as though this act had not been passed. (b)

19 April 1895.
P. L. 39.

County commissioners authorized to rebuild certain destroyed and abandoned bridges.

To be maintained as a county bridge.

Costs proportioned according to population.

Procedure if commissioners refuse to act.

Mandamus may issue.

Certain bridges exempt from provisions of this act.

(a) This is an amendment of the act 13 June 1836, § 11, P. L. 556: Brightly's Purdon, 1888, pl. 100.

L. 67), which was amended by the act 16 June 1891, (P. L. 305). See Brightly's Purdon's Digest, 1895, pl. 155.

(b) This amends the act 8 June 1881, (P.

31 April 1903 § 1.
P. L. 230.

Commonwealth
to rebuild all
county bridges
hereafter de-
stroyed.

Ibid. § 2.

County commis-
sioners to peti-
tion Dauphin
common pleas.

Viewers.

Report.

Notice to, and
duty of, Attorney
General.

Ibid. § 3.

Exceptions.
Hearing.

Appeal.

Decree.
Duty of Board of
Public Grounds
and Buildings.
Plans and speci-
fications.
Superintendent
of construction.
Advertisement
for proposals.
Contract.

Rejection of all
bids.

Ibid. § 4.

Inspection of
bridge.

110. From and after the passage of this act, the Commonwealth of Pennsylvania shall, from time to time, rebuild all bridges maintained, owned and controlled by the several counties, and known as county bridges, which are now or may hereafter be erected over and across the navigable rivers and such other streams as have been declared public highways by act of Assembly, which may hereafter be carried away or destroyed by flood or wind storm, and rebuild the same in case the same are again carried away or destroyed from like cause. (a)

111. Whenever any such county bridge shall be so carried away or destroyed by flood or wind storm, the county commissioners of the county in which such bridge may be located,—or, when such bridge crosses the boundary line between two counties, then the commissioners of both counties,—may apply by petition to the court of common pleas of Dauphin county, setting forth fully in said petition the location of such bridge, the time when a bridge was first erected in the same location, the time when the bridge was carried away by flood or destroyed by wind storm, the character of the bridge so carried away or destroyed, and the probable cost of replacing the same. Whereupon it shall be the duty of the court to appoint five viewers, one of whom shall be a civil engineer, and not more than two of whom shall be residents of the county wherein such bridge is proposed to be built. The viewers so appointed, after having been duly qualified to faithfully perform their duties, shall proceed to view the location of the proposed bridge, and make report at such time as the court may direct; which report shall contain an accurate statement of the kind and character of the bridge carried away or destroyed which it is proposed to replace, the length of time since the first bridge was built on the proposed location, the length of the bridge, together with a recommendation of the viewers as to the kind of bridge needed and the probable cost thereof, and it shall be the duty of the said viewers to inquire whether the accommodations of the travelling public in the locality demands the rebuilding of said bridge: Provided, That the Attorney General shall have due notice of the time of filing the petition and the application for viewers, and it shall be his duty to appear for and defend the interests of the Commonwealth in all such proceedings.

112. Upon the filing of such report, both the county and the Commonwealth shall have the right to file exceptions thereto at any time within thirty days; and it shall be the duty of the court after full hearing, by deposition or otherwise as the said court may direct, to determine all questions raised by the petition or exceptions; and to the final order so made, either the county or the Commonwealth shall have the right of an appeal to the Supreme Court, at any time within thirty days. In case the report of the viewers, or a majority of them, is in favor of the erection of the bridge, and the same is confirmed by the court, the court shall order and decree such rebuilding; and thereupon it shall be the duty of the Board of Public Grounds and Buildings immediately, to proceed and have prepared, in conformity with the report of the viewers, such plans and specifications of the proposed bridge as may be necessary, and appoint a superintendent of construction, and fix his compensation for said services, which shall not exceed five per centum of the amount of the contract; and after advertising for bids in not less than three daily newspapers, two of which shall be published in the county or counties in which such bridge is located, and the other in one newspaper published in the State Capital, for a period of three weeks,—and in counties in which two daily newspapers are not published, such notice, in the weekly newspapers of the county or counties, or otherwise, shall be given as the court may order and direct,—shall proceed to let the contract for the rebuilding of such bridge to the lowest and best bidder. In case they shall not conclude to reject all bids submitted, which they are hereby expressly authorized to do, and thereupon to readvertise in the manner aforesaid for bids, and upon the acceptance of the lowest and best bidder, the Board of Public Grounds and Buildings, on behalf of the Commonwealth, shall enter into contract for the same with such bidder, under the advice and direction of the Attorney General.

113. Every bridge so erected by the Commonwealth under contract with

(a) Under the act 3 June 1895, (P. L. 130), amended by the act in the text, the legislature intended that the commonwealth, in cases to which the act applied, should rebuild

bridges, only across the principal rivers of the State, and over smaller streams, which have been declared highways by acts of assembly. *Tunkhannock Bridge*, 20 C. C. 625.

it, shall be inspected by three fit persons, to be appointed by the said court, none of whom shall be residents of or property holders in the county wherein the bridge is located, and make report of the result of their inspection to the said court. (a)

114. When report is made by said inspectors that such bridge has been erected according to the contract for the erection of the same, the same shall be approved by the court; but if the persons so appointed to inspect such bridge shall not approve of the same they shall report to the court what sum in their judgment ought to be deducted from the sum stipulated in such contract, and thereupon the court shall grant a rule upon the builder or contractor to show cause against the said report, at a time and place in such rule to be named. After the service and return of such rule it shall be lawful for the builder or contractor to file a declaration or statement in the said court of common pleas of Dauphin county upon the contract made by him with the Commonwealth, as aforesaid, and thereupon proceed to trial in due course, in like manner as if an action had been commenced by him upon such contract against the Commonwealth.

115. If, by the report of the inspectors, it appears that said bridge has been built in conformity with the term of the contract and specifications, and such report is approved by the court, then it shall become the duty of the Auditor General to draw a proper warrant upon the State Treasurer for the contract price of said bridge, payable out of any moneys in the treasury, not otherwise appropriated, and in the event that by the report of said inspectors it is made to appear that a deduction should be made from the contract price as hereinbefore mentioned, and such report is acquiesced in by the contractor, or the amount thereof is finally determined by the said court in the manner hereinbefore provided, it shall be the duty of the Auditor General, in like manner, to draw a proper warrant for such sum upon the State Treasurer, payable out of any moneys in the treasury, not otherwise appropriated, in full satisfaction of the claims of the contractor. (a)

116. The fees and expenses to be allowed the viewers and inspectors, and the proper charge for the preparation of the plans and specifications of such bridge and the superintending of construction of the same, the cost of advertising, costs of all legal proceedings, and all other costs and expenses whatsoever, shall be paid by the county or counties in which the bridge is located; and the amount of the fees and expenses herein provided to be paid shall be fixed by the court, according to the circumstances of the case, upon notice to the county commissioners. (a)

117. All bridges erected under the provisions of this act shall be maintained, and at all times kept in good repair, by the county in which the same may be located, at its proper expense, and in case such bridge is over any stream forming the boundary line between two counties, the same shall be maintained and kept in repair at the joint expense of such counties.

118. All acts and parts of acts inconsistent herewith are hereby repealed.

119. The county commissioners of the several counties of this Commonwealth are hereby authorized to take charge of and rebuild and reconstruct any bridge over any stream or river forming the boundary line between two counties, when the same is on the line of a public highway or deemed necessary for the use of the traveling public, and owned and maintained by corporations or by private persons, or which was built by public subscriptions, used exclusively for vehicles and foot purposes, which has been destroyed by ice, flood or otherwise, at any time or which has been or may be abandoned, and the site or location and piers and abutments no longer used by the owners of said bridge, and the same rebuilt by said corporation or private persons or by public subscriptions on another site, or on new foundations at another point. And the said commissioners of the respective counties, jointly with the Board of Property of the Commonwealth of Pennsylvania as hereinafter provided, are hereby authorized to take charge of and rebuild and the counties thereafter maintain jointly, such bridge as a county bridge; and fifty per centum of the costs and expenses of such joint reconstruction shall be paid by the Commonwealth of Pennsylvania, by a proper warrant drawn by the Auditor General on the State Treasurer, payable out of any moneys

21 April 1903 § 4.
P. L. 230.

Report of inspectors shall be approved by court.

3 June 1895 § 5.
P. L. 130.

Inspectors may report less sum than stipulated in contract.

Court shall grant rule to show cause.

Contractor may file declaration and proceed to trial.

Ibid. § 5.

When contract finally approved, payment to be made by Auditor General.

Duty of Auditor General.

21 April 1903 § 7.
P. L. 230.

Fees and expenses. Shall be fixed by the court.

3 June 1895 § 8.
P. L. 130.

Bridges to be maintained by the county in which located.

Ibid. § 9.

Repeal.

9 July 1901.
P. L. 620.

County commissioners authorized to rebuild certain bridges over streams between two counties.

Costs and expenses.

(a) This act is an amendment of the act 3 June 1895, §§ 1, 2, 3, 4, 7, (P. L. 130). Under this section of the act of 1895, the fees of an engineer for preparing the plans and

specifications, were fixed at three per centum of the contract price of the bridge. *State Bridges*, 27 C. C. 633.

9 July 1901.
P. L. 629.
Bridge to be used
for free travel.

Compensation to
owners of former
bridge.

Construction
when State pays
fifty per cent of
cost.

Ibid. § 2.

Repeal.
13 May 1901 § 2.
P. L. 191.

Mandamus proceedings.

6 May 1897 § 3.
P. L. 46.

Commissioners
may borrow
money.
Rate of interest
and bonds.
When bonds to
be payable

Ibid. § 4.

Commissioners
may take piers,
etc., and pay for
same.

If parties cannot
agree, court may
appoint viewers
to assess dam-
ages.

Owners or com-
missioners may
appeal from
award of dam-
ages to court of
common pleas.
And to Supreme
Court.

Ibid. § 5.

Acts inconsistent
herewith, except
act approved
June 3, 1896, re-
pealed.

In the Treasury not otherwise appropriated; the remaining fifty per centum of such construction to be paid by the said counties, respectively, in the proportion of the population thereof as ascertained at the last census: Provided, That any such bridge, after having been constructed by the county commissioners at public cost, shall be used only for free travel of the general public, pedestrians and vehicles; but shall not be occupied nor used by any railroad, railway, transportation company or private corporation, nor shall any right of way be allowed thereon to any corporation chartered for purpose of private gain: Provided further, That just compensation shall be made to the owners of the former bridge for the taking or impairment of the rights and franchises of such owners, in the same manner as is provided in this act for ascertaining the compensation due for the piers and abutments: Provided further, That the Board of Property of the Commonwealth of Pennsylvania shall jointly have charge of contracting for and constructing all bridges erected under the provisions of this act, which require the State to pay fifty per centum of the expense; and the Commonwealth shall pay fifty per centum of the cost of construction of bridges, under the provisions of the act, only when such bridges are deemed necessary by the Board of Property of the Commonwealth of Pennsylvania. (a)

120. All acts or parts of act inconsistent herewith are hereby repealed.

121. If the said commissioners of the said counties shall neglect or refuse to act as herein provided, then, upon the petition of fifty property owners and taxpayers, residing in the city, borough or township in which the bridge is or was located, which petition shall set forth fully all the facts, supported by the affidavit of five of said property owners and taxpayers, to the court of common pleas of the counties where located, upon hearing, said court having jurisdiction shall issue a mandamus to said commissioners to proceed as provided by this act. (b)

122. For the purpose of carrying into effect the provisions of this act, the county commissioners of the respective counties of this Commonwealth are hereby authorized to borrow any sum of money, not exceeding the constitutional limitations, if necessary for the purposes aforesaid, at a rate of interest not exceeding six per centum, and issue bonds therefor not exceeding five hundred dollars each. Said bonds to be payable at the option of the commissioners of the county issuing the same after five years and within ten years from the date of issue. (c)

123. When the said commissioners have taken any piers, abutments, approaches, toll houses or other property necessary for the rebuilding and maintenance of any bridge as aforesaid, and are unable to agree with the owners upon the amount of damages they may sustain by reason thereof, the court of quarter sessions of the county in which said property is situate shall, upon petition of any party in interest, appoint three disinterested freeholders of said county to view the premises and assess the damages, if any, which such owner may sustain by the taking of the same, and make report of their proceedings to the said court at the next session thereof, ten days' notice of the time and place of meeting to be given the viewers and the parties in interest; the owner of any such property taken as aforesaid, or the commissioners, shall have the right to appeal from any award of damages made under the provisions of this act, to the court of common pleas of the county in which such property is situate, under such regulation for bringing the matter to a trial in due course of law by a jury as the said court may prescribe, either party having the right of appeal to the Supreme Court.

124. All acts or parts of acts inconsistent hereto are hereby repealed, but

(a) This amends act 13 May 1901, § 1, (P. L. 191), which amended act 6 May 1897, § 1, (P. L. 46).

The act 6 May 1897, (P. L. 46), (amended by the act in the text), was held to be constitutional. *Seabolt v. Northumberland County Commissioners*, 187 P. S. 318; reversing s. c. 20, C. C. 553.

Under this act the county commissioners have a discretion as to the re-building of a bridge, but such discretion is reviewable by the court on the petition of ten citizens and the

action of the court is final. A slight variation in the site of a bridge will not make the site a new one, if the bridge is in the line of the same highway for accommodating the same public travel in substantially the same place. *Seabolt v. Northumberland County Comm'rs.*, 197 P. S. 110.

(b) This amends the act 6 May 1897, § 2, (P. L. 46).

(c) See *Pepper & Lewis' Digest of Decisions*, Vol. XI, col. 19492.

this act shall not be understood or construed to repeal, modify or affect the provisions of an act, entitled "An act authorizing the Commonwealth of Pennsylvania to rebuild county bridges over navigable rivers, and other streams, which have been declared public highways by act of Assembly, where such bridges have been destroyed by flood, fire or other casualty, providing for the appointment of viewers and inspectors, and the payment of the costs of rebuilding such bridges," approved the third day of June, Anno Domini one thousand eight hundred and ninety-five.

125. The county commissioners of the several counties within this Commonwealth are hereby authorized to accept, take charge of and enter upon the records as a county bridge, any bridge over any stream or river running into or through any county, the said bridge having been erected and constructed at the expense of private persons, or by public subscriptions, and having been opened to free public travel used by the public and become necessary and convenient for the use of the public, upon notice in writing of the persons who erected or caused the same to be erected or constructed, or by the subscribers to the original subscription on which the money was raised to erect and construct the same, or the heirs or assigns of such persons or subscribers, or by a duly authorized board of trustees representing such persons or subscribers of their desire to donate the said bridge to the county wherein the same is situated, or where such bridge crosses a stream forming the boundary line between two counties, and the persons or their heirs or assigns, subscribers or trustees representing them as aforesaid shall give notice in writing to the county commissioners of each of said counties of their desire to donate such bridge to said counties, jointly, then the commissioners of said counties are hereby authorized to accept and jointly take charge of said bridge, enter the same upon the records of the respective counties as a joint county bridge, and maintain and keep the same in repair: Provided, That before said bridge is accepted by the county commissioners the question of its necessity shall be determined in the following manner: The said county commissioners shall, at the court of quarter sessions of the proper county or counties next after receiving the notice as aforesaid, present the same to said court for the appointment of three viewers, and where said bridge crosses a stream being the boundary line between two counties, shall present the same to the court of quarter sessions of each county for the appointment of three viewers by each of said courts, and each of said viewers to be an elector residing within the jurisdiction of the court appointing him. The said viewers shall immediately fix a time of meeting and give personal notice thereof to the county commissioners interested, and to all other persons, by publication in two newspapers published in each county, interested, once a week for two consecutive weeks, the last publication of said notice to be not less than ten days prior to the meeting of said viewers. And at the time fixed for said meeting said viewers shall meet at the bridge, and after being sworn to perform the duties of their appointment with fidelity and according to the best of their judgment, shall view the bridge and the approaches leading thereto, and hear any and all persons interested therein, and may, if necessary, adjourn to a subsequent time or times and after fully considering the same, shall report to the court or courts of quarter sessions by which they were appointed at the next session thereof, which report shall state that said viewers gave notice and were sworn as required herein, that they met at the bridge in question and viewed the same, together with the approaches leading thereto, the condition of the bridges, and whether or not in their judgment the same is necessary and convenient to accommodate travel. The report of said viewers shall lie over until the then next session of said court or courts, and if no exceptions to the proceedings be filed in the meantime, the court or courts shall confirm said report absolutely, and the commissioners of the county or counties shall thereupon enter said bridge upon the records as a county or a joint county bridge, as the case may be, and thereafter said bridge shall be subject to the laws now or hereafter to be enacted relating to county or joint county bridges.

126. In case exceptions to the proceedings provided in section one of this act be filed in the court or courts given jurisdiction thereby within the time therein specified, the said proceedings shall stay until the exceptions are disposed of by the court or courts in which they are filed. And if

6 May 1897 § 5.
P. L. 46

26 May 1897 § 1.
P. L. 108.

Where a bridge becomes free, commissioners may accept as county bridge.

Where bridge crosses streams forming boundary between two counties.

How question of its necessity to be determined.

Appointment of viewers regulated.

Qualifications.

Viewers shall give notice to all parties interested.

Place of meeting of viewers.

Report of viewers.

Contents of report.

Report shall lie over one session of court.

Confirmation of report.

Ibid. § 2.

Exceptions may be filed.

If sustained new proceedings may be instituted.

- 26 May 1897 § 2.
P. L. 108.
Ibid. § 3.
Compensation of viewers.
Payment of costs, etc.
- Owners of bridges shall pay amount of fees and expenses into county treasury. Or bond may be required.
9 July 1897.
P. L. 218.
County to erect bridges or culverts between cities boroughs or townships.
Five resident taxpayers to view the locality.
9 July 1897 § 1.
P. L. 228.
Erection of bridges over streams crossing streets in boroughs by county commissioners. Conditions.
How to be built.
Ibid. § 2.
Repeal.
28 April 1899.
P. L. 92.
Enabling county commissioners to enter of record bridges as county bridges.
27 March 1903 § 1.
P. L. 74.
When counties may aid townships and cities of the third class in the construction of bridges.
- said exceptions be sustained, proceedings de novo may be instituted at any time after the first subsequent session of said court.
127. The viewers authorized to be appointed by section one of this act shall receive the compensation allowed by law to road and bridge viewers, which, together with the cost of publication and notice required by this act, and the legal costs of the clerk or clerks of the court or courts of quarter sessions, shall be paid out of the treasury of the county wherein the said viewers are appointed, notice given and clerk's services performed, at the time of the session of court to which their report is rendered and filed, and the owners of said bridge shall pay the amount of said fees and expenses into the county treasury by which the same were paid in all such cases as the court by order may direct, and the county commissioners may require the owners of said bridges to file a bond, together with their notice, in a sufficient sum to secure the payment of the same when the case is concluded.
- and (S. P. L. 1997-219)
128. Whenever any city or borough or township of this Commonwealth are separated by a river, creek or rivulets, the court of quarter sessions of the county in which said city and borough or township are situate, upon petition thereto by not less than twenty-five resident taxpayers of said county, representing that the erection of said bridge or culvert over said river, creek or rivulet is necessary for the accommodation and conveyance of public travel, and praying that the county shall erect a bridge or culvert over such river, creek or rivulet, and between such city and borough or township, shall appoint five resident taxpayers of such county, one of whom shall be a civil engineer or surveyor, none of which viewers shall reside on or own real estate within five miles of the site of the proposed bridges or culvert, and to make report of their proceedings to the said court at the next term thereof. (a)
129. When a river, creek or rivulet over which it may be necessary to erect a bridge which crosses a street of any borough in this Commonwealth, and the erecting of such bridge requires more expense than it is reasonable that the borough wherein the bridge is to be located should bear, that after a view has been ordered by the proper court, as now provided by law, if it shall appear by the report of the viewers and by the approval of the court and grand jury that such bridge is necessary and would be too expensive for such borough to bear, the county commissioners are hereby authorized and empowered, from and out of the county funds, to either build such bridge or any portion or portions thereof, or to furnish such borough the whole or part of the money necessary to build it.
130. That all acts or parts of acts inconsistent herewith be and the same are hereby repealed.
131. Whenever the county commissioners of any county have heretofore assisted or shall hereafter assist any township, townships or borough in the building of the whole or any portion of a bridge, under existing laws, and it shall afterwards appear to the said commissioners, and to the court of quarter sessions of the proper county, that the care, maintenance and responsibility of said bridge is greater than it is reasonable that the said township, townships or borough should bear, it shall be lawful for the said county commissioners, and they are hereby authorized and empowered, with the approval of said court, to enter such bridge upon record as a county bridge, and it shall thereafter be a county bridge the same as if it had originally been so entered of record. (b)
132. When a river, creek or rivulet, over which it may be necessary to erect a bridge, crosses a public road or highway, and the erecting of such bridge requires more expense than it is reasonable that one or two adjoining townships, or a city of the third class should bear, that after a view has been ordered by the proper court, as now provided by law, if it shall

(a) This amends the act 29 April 1891, § 1, (P. L. 31). See Brightly's Purdon's Digest, 1895, pl. 159.

(b) The act 5 May 1899, (P. L. 231), authorizing counties to purchase, maintain, use and condemn bridges erected and in use over rivers and streams separating or dividing any part or district of such counties, was held to be unconstitutional, because its title fails to

disclose that important powers and duties were taken away from county commissioners who are constitutional officers, and vested in the grand jury, a shifting and uncertain body, not usually, if ever, exercising such powers, not elected by the voters, but drawn by lot, and not even requiring the supervision of the court. *Stegmaier v. Jones*, 203 P. S. 47.

appear, by the report of the viewers and by the approval of the court and grand jury, that such bridge is necessary, and would be too expensive for such township or townships, or such city of the third class, to bear, that whenever the county commissioners do not deem it advisable to enter such bridge on record as a county bridge, but shall consider it proper to assist such township or townships, or such city of the third class, in building the same, they are hereby authorized and empowered, from and out of the county funds, to either build such bridge or any portion or portions thereof, or to furnish such township or townships, or such city of the third class, the whole or part of the money necessary to build it, without entering such bridge on record as a county bridge.(a)

133. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

134. When one or more existing railroads, over or under which it may be advisable, for the protection of travelers, to erect a bridge, crosses a public road or highway which may hereafter be opened, and the erection of such bridge requires more expense than is reasonable that one or two adjoining townships should bear, or more than is reasonable that the township wherein the bridge is to be located should bear, the court of quarter sessions of the county wherein such bridge is to be erected shall, on the representations of the supervisors or on the petition of any of the inhabitants of the township, order a view, in the manner provided for in the case of roads; and if, on the report of the viewers, it shall appear to the court, grand jury and commissioners of the county that such bridge is necessary, and would be too expensive for such township or townships, it shall be entered on record as a county bridge: Providing, That this act shall not apply to existing roads and highways.

135. After the entry of any such bridge as a county bridge, it shall be the duty of the commissioners of said county to provide for its erection, in the manner now provided by law for the erection of county bridges: Provided further, That the viewers shall have authority to apportion the cost of such bridge between the county and railroad company, in such proportion as the said viewers deem just and reasonable.

136. The county commissioners of the several counties of this Commonwealth are authorized and required to have the county bridges of their respective counties, which are constructed of iron or steel, painted, and the bolts of the same drawn, as often as may be necessary, to preserve them from the effects of rust and prevent unnecessary wear occasioned by loose bolts.

137. Said county commissioners shall, during the month of March of each year in which it may be necessary to paint any of the county bridges and tighten the bolts thereof, as required by section one of this act, cause to be published in two newspapers of the proper county a list of such bridges, stating their location and specifying the kind and quantity of paint to be used, and asking for sealed bids for furnishing the material and doing the work upon each separate bridge; which bids shall be opened on the first day of the following May, or as soon thereafter as practicable, and the contract for material and work upon each bridge shall be given to the lowest and best bidder.

138. Bridges over any river, creek or rivulet, being on the line of adjoining counties, or located within one-fourth of a mile therefrom, and necessary for the accommodation of the inhabitants of both counties, shall be authorized in the manner provided in the case of other county bridges, except that the court of quarter sessions of each county shall appoint three of the viewers, and that a report as aforesaid be made to the said courts, respectively, and that the said courts shall, together with the grand juries and commissioners of the respective counties, in all other respects have and exercise a concurrent jurisdiction and discretion therein.(b)

139. Whenever a public bridge has been built or maintained by any borough or township, or both, or by any two townships, and used by the public for travel, across a river, within any borough or separating any borough and township, or separating any two townships, within the Common-

27 March 1903 § 1.
P. L. 74.

Ibid. § 2.

Repeal.
11 April 1903 § 1.
P. L. 164.

Construction of bridges over or under railroads at expense of county.

Court shall appoint viewers.

Report.

Ibid. § 2.

Erection of bridges.
Apportionment of cost.

21 April 1903 § 1.
P. L. 428.

Steel and iron county bridges to be kept in repair.

Ibid. § 2.

County commissioners to advertise for sealed bids.

23 April 1903.
P. L. 289.

Erection of bridges on the line of adjoining counties, or within one-fourth mile therefrom.

27 April 1903.
P. L. 323.

County commissioner may accept certain borough and township bridges, across rivers, as county bridges.

(a) This is an amendment of the act 25 May 1887, § 1, (P. L. 267). See Brightly's Purdon's Digest, p. 1895, pl. 157.

(b) This is an amendment of the act 13 June 1836, § 46, (P. L. 560). See Brightly's Purdon's Digest, 1892, pl. 132.

- 27 April 1903.
P. L. 323.
—
13 April 1899.
P. L. 47.
—
Repeal of act of
April 13, 1843 P. L.
221, so far as it
except Susquehanna county.
- wealth of Pennsylvania, the county commissioners of any county wherein such bridge is, may take the same as a county bridge whenever the proper authorities, having the maintenance, supervision and control of such bridge, shall tender the same to said county commissioners, free and without charge therefor; and any such bridge, so taken, shall thereafter be maintained and kept in repair as a county bridge.
140. The act of Assembly made and approved the thirteenth day of April, Anno Domini one thousand eight hundred and forty-three, Pamphlet Laws number one hundred and seven, page two hundred and twenty-one, (c) entitled "An act supplementary to an act, entitled 'An act relating to roads, highways and bridges,'" be and the same is hereby repealed so far as the same excepts the county of Susquehanna from its provisions.

ROAD TAXES.

See COUNTIES AND TOWNSHIPS; ROADS, HIGHWAYS AND BRIDGES; TAXES.

1. Persons using wide tires to be credited with one-fourth of road tax.
2. Load of 10,000 pounds and upwards to have four inch tires. Violation of act.
3. Repeal.
- 24 April 1901 § 1.
P. L. 99.
—
Persons using wide tires to be credited with one-fourth of road tax.
1. Every person who shall subscribe to an affidavit that he has owned and used or used exclusively during the preceding year, in hauling loads of two thousand pounds weight and over on the public roads of this Commonwealth, draught wagons with tires not less than four inches in width, shall, for each year after the passage of this act, be credited by the supervisor of highways of the respective district in which such tax is levied and assessed with one-fourth of the road tax assessed and levied on the property of such person. And when any tenant shall by contract be or become liable for road taxes assessed against the premises leased to him, he may secure the benefits of this act upon making the affidavit hereinbefore specified, as to the exclusive use by him of such wagons as are hereinbefore designated: Provided, however, such credit shall not exceed in any one year, to any one person, five days' labor on the highways, or its equivalent in cash. And every supervisor of roads is hereby authorized and empowered to administer the oath hereinbefore mentioned.
- Ibid. § 2.
—
Loads of 10,000 pounds and upwards to have four inch tires. Violation of act.
2. Every person who shall use on the public roads of this Commonwealth, in hauling loads of ten thousand pounds weight and upward, any wagon or wagons having tires less than four inches in width, shall be liable to a fine of five dollars for each and every offense, which fine shall be recovered in a criminal proceeding, instituted upon the complaint of any person at the suit of the Commonwealth, before any justice of the peace, and the fine so imposed shall be payable to the supervisors of roads for the use of the road fund of the respective township. (G)
- Ibid. § 3.
—
Repeal.
3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

ROBBERY.

1. Train robbery punished. Penalty.
- 21 June 1895.
P. L. 291.
—
1. Any person or persons who shall remove, displace or injure any switch, frog, rail, tie, bridge or trestle, or who shall place upon any railroad track any obstruction or explosive substance, or enter into any conspiracy therefor with the design of stopping a train for the purpose of robbery on
- (c) See Brightly's Purdon, 1892, pl. 140. The effect of this repealing act is to make it the duty of the county commissioners in Susquehanna County to repair all county bridges and pay the expenses out of the county treasury.
- (a) See act 25 June 1895, P. L. 288. A farmer who uses no wagon with a tire narrower than four inches, to carry two thousand pounds or more, is entitled under this act, to a rebate of one fourth the assessed highway tax. *Road Tax Rebate*, 17 C. C. 517.