Pennsylvania Laws

LAWS

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF PENNSYLVANIA,

PASSED AT THE

SESSION OF 1868,

In the Ninety-second Year of Independence.

WITH AN APPENDIX.

BY AUTHORITY.

HARRISBURG:
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1868.

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No. 575.

An Act

To fix the time of holding the several courts of the county of Lycoming, and the return days of writs therein.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the several courts of the county of Lycoming shall hereafter be held on the fourth Monday of January, April, August and November in every year: *Provided*, That in the present year the said courts shall be held on the third Monday of April.

Courts, when to be held.

Proviso.

SECTION 2. That all writs issued from said courts for the commencement of actions shall be made returnable on the fourth Monday of each month.

Original writs, when returnable.

SECTION 3. That all writs issued from said courts, since the passage of the act to which this is a supplement, shall be good and valid, notwithstanding any mistakes in the attestation or return day thereof.

Writs issued since passage of former act, validated.

SECTION 4. That so much of any law as is hereby altered, be and the same is hereby repealed.

Repeal.

ELISHA W. DAVIS,
Speaker of the House of Representatives.

JAMES L. GRAHAM,
Speaker of the Senate.

APPROVED—The second day of April, Anno Domini one thousand eight hundred and sixty-eight.

JNO. W. GEARY.

No. 576.

A Further Supplement

To an act to incorporate the city of Erie.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the mayor and councils of the city of Erie shall have power, upon petition in writing of at least twelve freeholders of said city, to ordain, lay out and open such new streets in said city as shall by them be deemed expedient to

Mayor and councils may, upon petition of freeholders, ordain and open new streets.

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promote the general benefit of the inhabitants thereof; which streets shall be clearly designated and their width determined in the ordinance establishing the same, and when so established, such new streets shall be subject to the same laws and ordinances as other streets of said city.

Notice of proposed establishment of streets to be published

SECTION 2. Before the passage of any ordinance establishing a new street or streets, the councils shall cause notice of the proposed establishment of such street or streets to be published in two newspapers of said city, during three consecutive weeks, describing the proposed commencement, course and termination thereof; and they shall hear and consider the reasons offered by any citizens or owners of real estate in said city who may desire to oppose or advocate the establishment of such street or streets; and such ordinance to be valid must pass each branch of the council on three several readings, the last of which shall not be on the same day as the first two; on which last reading the yeas and nays shall be called and recorded; and such ordinances shall not be valid, unless passed by the votes of two-thirds of the members of each branch of the council.

Councils to hear reasons for and against establishment of streets.

Ordinance for establishment of streets, how passed.

Damages, how ascertained.

SECTION 3. The damage sustained or claimed by any person whose land may be taken, or who may have sustained damage by the establishment of any such street, shall be ascertained in the same manner, and subject to the same laws and rules, as are prescribed by the act of assembly of this commonwealth, approved the nineteenth day of February, Anno Domini one thousand eight hundred and forty-nine, entitled "An Act regulating railroad companies," and the supplements thereto, for ascertaining damages sustained by the laying out and opening of railroads: *Provided*, That the viewers appointed by the court shall be disinterested freeholders of said city, owning no land on the street in regard to which the damage is to be ascertained.

Proviso.

Tax assessed against property owners for construction of sewers, &c., to be a lien.

SECTION 4. Whenever the construction of a sewer or the pavement of the carriage way of a street or part of a street shall have been or hereafter shall be ordained at the expense or in part at the expense of the owners of real estate fronting on such street or part of a street, the tax therefor assessed against such owners shall be a lien on their respective portions of the real estate fronting on the street or part of a street so improved, and shall have priority over all other liens; and if any such assessment shall not be paid within sixty days after it shall have been placed in the hands of the collector, it shall be lawful for the city of Erie to cause such lien to be filed in the prothonotary's office, in the county of Erie, in the manner provided by the laws of this commonwealth for the filing of liens of mechanics and others, for labor and materials used in the construction of buildings, except so far they are inapplicable; to which lien, when filed as aforesaid, ten per cent. shall be added to the assessment; and in enforcing the payment of such lien the said city shall proceed in the manner provided by said laws for enforcing the payment of liens of mechanics and others: *Provided*, That in case the owner of the real estate assessed cannot be found, a copy of the *scire facias* may be affixed to a fence, post or

Proceedings to collect same if not paid within certain time.

Proviso.

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other fixture on or adjoining the premises, and the same being so returned by the sheriff shall be deemed a sufficient service.

Collector of tax to give owners and agents notice of amount before filing lien

SECTION 5. If the owner or any known agent of the real estate assessed as aforesaid shall reside in said city, it shall be the duty of the collector of the tax to give him notice of the amount, and demand payment at least thirty days previous to the filing of the lien aforesaid, under the penalty of twelve per cent. of the amount of tax, to be recovered by the owner of the land assessed, from such delinquent collector, as debts of like amount are by law recoverable; but no other notice than the service of the *scire facias*, as hereinbefore provided, shall be necessary to the validity of a judgment for the amount of the aforesaid lien.

City to have side walks paved or re-paved in certain cases.

SECTION 6. Whenever the council of said city shall order or shall have heretofore ordered the paving or re-paving of any side-walk, at the cost of the owner of the land fronting on the same, and such side-walk shall not have been or shall not be paved or re-paved by such owner, within the time or in the manner directed by the ordinance requiring the same, and the city of Erie shall thereupon have paved or re-paved, or shall hereafter pave or re-pave any such neglected side-walk, the cost of such work shall be a lien having priority as aforesaid upon the real estate fronting on the same, and may be collected, with ten per cent. additional, in the same manner as hereinbefore provided for the collection of pavement and sewers taxes; but nothing herein contained shall be construed to relieve such delinquent from the penalties now existing, for neglecting to pave side-walks.

Cost of work to be a lien.

How collected.

Distance to which taxation for construction of sewers may be extended on certain land.

SECTION 7. In assessing special taxes for the construction of sewers, it shall be lawful to extend the taxation on the land fronting on the street in which the sewer shall be constructed, to the distance of twenty feet beyond the upper extremity of such sewer, so that said twenty feet be made to pay its proportion by the lineal feet of the cost of the construction of such sewer; and the council shall have power to cause a portion of the cost of paving the carriage-way of a street or part of a street, and of the construction of a sewer, to be paid out of the general funds of the city, whenever, in their opinion, the equalization of the burdens and benefits of such improvements shall require it.

Council may cause city to pay part of cost of paving carriage ways, &c.

Councils may grant to water commissioners portion of Front street and unsold water lots.

SECTION 8. The said council shall have power to grant to the commissioners of water works of the city of Erie such portion of Front street, and so many of the unsold water lots next east of the intersection of Chestnut with Front street, as may be necessary for the erection of any structures required or otherwise necessary for supplying the city of Erie with water, to have and to hold the same so long as they may be used or required for said purpose, subject to such regulations as the council may ordain: *Provided*, The water commissioners of the city of Erie, elected under this act, shall not receive any compensation for their services other than their actual expenses; and no water commissioner, mayor, member of the council, city engineer or surveyor shall be directly or indirectly concerned in any contract to perform work or furnish materials for said city or said water commis-

Water commissioners to receive no compensation other than expenses.

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sioners, under the penalty of being forever disqualified from holding any office of honor, profit or trust in this commonwealth, and of a fine not exceeding one hundred dollars on conviction in the court of quarter sessions of Erie county.

Water commissioners, mayor, &c., not to be concerned in contracts.

SECTION 9. The said mayor and councils shall have power by ordinance, if they deem it expedient, to extend the northern boundary of those water lots of the first, second and third sections of the city of Erie, lying west of the canal basin, to a line beginning at the north-west corner of the canal basin pier, and running thence westward parallel to the second street of the city of Erie, to the western boundary of said water lots, being a northward extension of the western boundary of the third section; they shall also have power to grant the Philadelphia and Erie railroad company the privilege of extending the track of their road from Front street, along the east side of State street, north to the canal basin pier, upon such conditions and subject to such regulations as the council of said city may deem proper.

Mayor and councils may extend northern boundary of certain water lots.

May grant to Philadelphia and Erie Railroad Company privilege of extending their track.

SECTION 10. So much of the act, entitled "An Act to amend the charter of the city of Erie," approved the thirtieth day of April, Anno Domini one thousand eight hundred and sixty-four, as authorizes the mayor of said city, or any member of the council thereof, to be engaged or have an interest in any contract (as lowest bidder or otherwise) to which the city is a party, be and the same is hereby repealed; and so much of the second section of the act, approved the fourth day of April, Anno Domini one thousand eight hundred and sixty-seven, respecting the powers and duties of the water commissioners of said city, as requires them to take their supply of water from the bay or harbor, or from lake Erie, be and the same is hereby repealed.

Repeal of portion of act of 13th April, 1854.

Repeal of portion of act of 4th April, 1867.

SECTION 11. That the council of the city of Erie, with the approval of the mayor, may pass and enforce such general ordinance as they shall deem best, relative to bathing and fishing in the bay or harbor of Erie: *Provided*, It shall not be lawful for any person or persons to set any net or seine across the channel at the entrance of the harbor of Erie, so as in the least to obstruct or impede the entrance and propagation of fish within the harbor.

Council may pass ordinance relative to bathing or fishing in bay or harbor.

SECTION 12. The mayor and councils shall have power to regulate or prohibit sales by auction on any street or other place in said city, except within some house or store, under such penalties as they may deem expedient.

Mayor and councils may regulate or prohibit auction sales.

SECTION 13. That the mayor and councils shall have the power to construct sewers along any of the squares or blocks of the streets of the said city, and make pavements on the same, whenever the majority of the owners of property on both sides and facing said streets shall petition for the same, and not otherwise, except when the ordinance directing the same shall provide for payment of the cost thereof out of the general funds of the city.

When sewers may be constructed along squares or blocks of streets, and pavements made.

SECTION 14. That the tract of land called the Peninsula, which forms the northern boundary of the harbor of Erie, including all the land above low water mark, from the main land on the westward to the most easterly extremity of the

Peninsula subject to supervision and control of city.

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same, shall be subject to the supervision and control of the city of Erie, but without power to sell or convey or to cut any live timber or underbrush, or to authorize the same to be done, or to authorize any act that may have a tendency to affect, injuriously, the stability of the Peninsula, the object and intent being that the said Peninsula shall forever remain in its present condition, so far as may be necessary for its preservation, and that of the harbor of Erie depending thereon; and the authorities of said city may exercise such supervision and control of the same, by leasing or otherwise, as shall not conflict with the foregoing prohibitions; and all moneys received from leases or otherwise from said Peninsula shall be applied to the support of the Marine hospital of Pennsylvania, at Erie: *Provided*, That no contracts in relation thereto shall be valid unless first approved by the court of common pleas of Erie county: *And provided further*, That the commonwealth hereby reserves the right, at any time hereafter, to annul the privileges hereby granted, and to resume the absolute control of said Peninsula for military or other public purposes, in like manner as if this act had not been passed.

May be leased.

Moneys received from leases, how applied.

Proviso.

Repeal.

Proviso.

SECTION 15. So much of any acts of assembly as conflicts with the foregoing act, is hereby repealed: *Provided*, This repeal shall not affect any suit now pending, but the same shall be tried and decided in accordance with the law as it existed at the commencement of the suit.

ELISHA W. DAVIS,
Speaker of the House of Representatives.

JAMES L. GRAHAM,
Speaker of the Senate.

APPROVED—The second day of April, Anno Domini one thousand eight hundred and sixty-eight.

JNO. W. GEARY.

No. 577.

A Supplement

To an act, entitled "An Act to incorporate the Pottstown Market Company," approved the eleventh day of April, Anno Domini one thousand eight hundred and sixty-six, to increase its objects and capital stock.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That the lawful objects of said market company are hereby

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