

Answer of defendant claiming any estate, what to specify.

4. That if any defendant shall answer claiming any estate, or interest in, or encumbrance on said lands, or any part thereof, he shall in such answer specify and set forth the estate, interest or encumbrance so claimed, and if not claimed in or upon the whole of said lands, he shall specify and describe the part in or upon which the same is claimed, and shall set out the manner in which, and the sources through which such title or encumbrance is claimed to be derived.

On application of either party an issue at law may be directed.

5. That upon application of either party, an issue at law shall be directed to try the validity of such claim, or to settle the facts, or any specified portion of the facts upon which the same depends, and the court of chancery shall be bound by the result of such issue, but may, for sufficient reasons, order a new trial thereof, according to the practice in such cases; and when such issue is not requested, or as to the facts for which the same is not requested, the court of chancery shall proceed to inquire into and determine such claims, interest and estate, according to the course and practice of that court; and shall, upon the finding of such issue, or upon such inquiry and determination, finally settle and adjudge whether the defendant has any estate, interest or right in, or encumbrance upon said lands, or any part thereof, and what such interest, estate, right or encumbrance is, and in or upon what part of said lands the same exists.

Final decree to settle rights of all parties.

6. That the final determination and decree in such suit, shall fix and settle the rights of the parties in said lands; and the same shall be binding and conclusive on all parties to the suit; but if any defendant to such suit, shall, either at the time of the decree *pro confesso* against him, or at the final decree, be an infant or *non compos mentis*, such party, his heirs or assigns, at any time within two years after the termination of such disability, may appear in said suit, and apply for a rehearing, and thereupon such decree shall be opened as against such party, and the cause may proceed as if no decree had been made in the same against him.

## Townships.

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**An act incorporating the inhabitants of townships, designating their powers and regulating their meetings.**

Rev. 332, 723.

Harr. 187.

Approved April 14, 1846.

P. L. 1836, p. 95.  
" 1842, p. 165.  
" 1844, p. 231.  
" 1846, p. 15.

R. S. 1019.

Townships incorporated.

1. That the inhabitants of each of the several townships, precincts and wards of this state, hereinafter mentioned, be and they are hereby continued a body politic and corporate in law, as heretofore constituted and established, by the name of "the inhabitants of the township of \_\_\_\_\_," in the county of \_\_\_\_\_," as the case may be, that is to say:

(1). The inhabitants of the townships of Hackensack, Saddle River, Franklin, Harrington, New Barbadoes, Lodi and Washington, in the county of Bergen.

Bergen.

[Townships since incorporated: Hohokus, P. L. 1849, p. 21. Union, P. L. 1852, p. 43. Midland, 1873, p. 54. Englewood, 1873, p. 691. Palisades, 1873, p. 691. Ridgewood, 1873, p. 691. Ridgefield, 1876, p. 487].

(2). The inhabitants of the townships of Springfield, Clinton, Union, Bloomfield, Belleville, Rahway, Westfield, New Providence, Elizabeth, Orange, Caldwell, Livingston and Newark, in the county of Essex.

Essex.

[Incorporated in 1847, p. 29, Plainfield. By P. L. 1857, p. 244, the county of Union was set off from the county of Essex. Essex county now contains the following townships: Clinton, Bloomfield, Belleville, Orange, South Orange, Caldwell, Livingston, Newark and Milburn. East Orange, 1863, p. 103. West Orange, 1863, p. 279. Montclair, 1868, p. 998, and Franklin, 1874, p. 191].

(2A). Union county contains the townships of Rahway, Elizabeth, Union, Springfield, Westfield, New Providence, Plainfield and Linden. Clark, 1864, p. 369. Summit, 1869, p. 538. Cranford, 1871, p. 476.

Union.

(3). The inhabitants of the townships of Piscataway, Woodbridge, Perth Amboy (otherwise called the north ward of Perth Amboy), North Brunswick (otherwise called the north ward of New Brunswick), Monroe, South Brunswick (otherwise called the south ward of New Brunswick), and South Amboy (otherwise called the south ward of Perth Amboy), in the county of Middlesex.

Middlesex.

[East Brunswick and New Brunswick, P. L. 1860, p. 162. Madison, 1869, p. 111. Raritan, 1870, p. 684. Cranbury, 1872, p. 378. Sayreville, 1876, p. 492].

(4). The inhabitants of the townships of Upper Freehold, Stafford, Dover, Middletown, Shrewsbury, Freehold, Howell, Millstone, Jackson, Union and Plumsted, in the county of Monmouth.

Monmouth.

[By act of February 15, 1850, the townships of Stafford, Dover, Jackson, Union and Plumsted were set off into Ocean county. The following townships have since been incorporated in Monmouth county: Atlantic, P. L. 1847, p. 66. Marlboro', 1848, p. 48. Raritan, 1848, p. 95. Manalapan, 1848, p. 199. Ocean, 1849, p. 115. Wall, 1851, p. 191. Holmdel, 1857, p. 29. Matawan, 1857, p. 29. Eatontown, 1873, p. 630].

(4A). The inhabitants of the townships of Jackson, Plumsted, Stafford, Union, Dover and Brick, in the county of Ocean.

Ocean.

[Manchester, 1865, p. 913. Lacey, 1871, p. 876. Eagleswood, 1874, p. 284. Berkely, 1875, p. 430. Ocean, 1876, p. 503].

(5). The inhabitants of the townships of Bridgewater, Bedminster, Bernards, Hillsborough, Montgomery (otherwise called the western precinct), Warren, Franklin (otherwise called the eastern precinct), and Branchburgh, in the county of Somerset.

Somerset.

[North Plainfield, 1872, p. 1040].

(6). The inhabitants of the townships of Little Egg Harbor, Springfield, Mansfield, Washington, Evesham, Willingborough, New Hanover, Chester, Northampton, Chesterfield, Burlington, Pemberton and Southampton, in the county of Burlington.

Burlington.

[Medford, 1847, p. 16. Westhampton, 1850, p. 241. Bordentown, 1852, p. 3. Shamong, 1852, p. 64. Beverly, 1859, p. 21. Lumberton, 1860, p. 248. Cinnaminson, 1860, p. 268. Bass River, 1864, p. 597. Woodland, 1865, p. 224. Randolph, 1870, p. 961. Florence, 1872, p. 40. Mount Laurel, 1872, p. 40].

- Gloucester. (7). The inhabitants of the townships of Deptford, Greenwich, Woolwich, Franklin and Harrison, in the county of Gloucester.  
[Mantua, 1853, p. 153. Clayton, 1858, p. 26. Woodbury, 1854, p. 333. West Deptford, 1871, p. 337. West Woolwich, 1877, p. 364. By act of 1871, p. 314, the townships of Monroe and Washington were set off from Camden to Gloucester].
- Salem. (8). The inhabitants of the townships of Salem, Mannington, Lower Penn's Neck, Pittsgrove, Upper Pittsgrove, Elsinborough, Alloway's Creek, Upper Penn's Neck, Upper Alloway's Creek and Pilesgrove, in the county of Salem.  
[Quinton, 1873, p. 217].
- Cape May. (9). The inhabitants of the Upper township (otherwise called the upper precinct), the Middle township (otherwise called the middle precinct), the Lower township (otherwise called the lower precinct), and Dennis, in the county of Cape May.  
[Cape May City, 1869, p. 240].
- Hunterdon. (10). The inhabitants of the townships of Lebanon, Clinton, Alexandria, East Amwell, West Amwell, Bethlehem, Kingwood, Tewksbury, Readington, Raritan, Delaware and Franklin, in the county of Hunterdon.  
[Lambertville, 1849, p. 247. Union, 1853, p. 91. Frenchtown, 1867, p. 567. Town of Clinton, 1865, p. 778. High Bridge, 1871, p. 1005. Holland, 1874, p. 513].
- Morris. (11). The inhabitants of the townships of Pequannock, Jefferson, Roxbury, Chester, Washington, Hanover, Randolph, Morris, Chatham, Mendham and Rockaway, in the county of Morris.  
[Passaic, 1866, p. 666. Boonton, 1866, p. 506. Montville, 1867, p. 936. Mount Olive, 1871, p. 695].
- Cumberland. (12). The inhabitants of the townships (otherwise called precincts) of Maurice River, Downe, Fairfield, Greenwich, Stow Creek, Deerfield and Hopewell, and of the townships of Millville and Bridgeton, in the county of Cumberland.  
[Cohansey, 1848, p. 125. Landis, 1864, p. 180. Commercial, 1874, p. 211].
- Sussex. (13). The inhabitants of the townships (otherwise called precincts) of Sandyston, Montague, Frankford, Byram, Hardyston, Newton, Walpack, Wantage and Vernon, and of the townships of Stillwater, Green, Sparta and Lafayette, in the county of Sussex.  
[Andover, and Hampton, 1864, p. 196].
- Warren. (14). The inhabitants of the townships of Mansfield, Oxford, Franklin, Harmony, Greenwich, Hope, Independence, Knowlton, Hardwick, Pahaquarry and Blairstown, in the county of Warren.  
[Belvidere, 1845, p. 108. Frelinghuysen, 1848, p. 172. Washington, 1849, p. 222. Phillipsburg, 1851, p. 188. Hackettstown, 1853, p. 344. Lopatcong, 1863, p. 289. Borough of Washington, 1868, p. 76. Allamuchy, 1873, p. 371].
- Passaic. (15). The inhabitants of the townships of Paterson, Acquackanonk, Manchester, West Milford and Pompton, in the county of Passaic.  
[Wayne, 1847, p. 47. Little Falls, 1868, p. 13. Passaic, 1869, p. 317].
- Atlantic. (16). The inhabitants of the townships of Egg Harbor, Galloway, Hamilton, Mullica and Weymouth, in the county of Atlantic.  
[Atlantic City, 1854, p. 278. Egg Harbor City, 1858, p. 385. Hammon-ton, 1865, p. 188. Buena Vista, 1867, p. 142. Absecon, 1872, p. 301].
- Mercer. (17). The inhabitants of the townships of Nottingham, Hamilton, Princeton, East Windsor, West Windsor, Hopewell, Lawrence, Ewing and Trenton, in the county of Mercer.  
[Washington, 1859, p. 350. Chambersburg, 1872, p. 1044. By act of 1856, p. 134, part of Nottingham township was annexed to city of Trenton and part to Hamilton township].
- Hudson. (18). The inhabitants of the townships of Bergen, North Bergen, Har-rison, Jersey City and Van Vorst, in the county of Hudson.  
[Hoboken, 1849, p. 282. Weehawken, 1859, p. 368. Union, 1861, p. 99. West Hoboken, 1861, p. 99. North Bergen, 1861, p. 99. Bayonne, 1861, p. 454. Greenville, 1863, p. 103. Town of Union, 1864, p. 561. Kearney, 1867, p. 253. Township of Van Vorst annexed to Jersey City, 1851, p. 392, and Bergen, 1869, p. 1377].

(19). The inhabitants of the townships of Washington, Gloucester, Camden, Union, Newton, Waterford, Camden, Delaware and Winslow, in the county of Camden; (Centre, 1855, p. 182. Stockton, 1859, p. 18. Haddon, 1865, p. 119. Gloucester City, 1868, p. 103. Merchantville, 1874, p. 216); *provided*, that the corporate name, powers and privileges, of the several cities, towns and boroughs of this state, shall be continued agreeably to the provisions of the several acts incorporating said cities, towns and boroughs respectively. Proviso.

2. That the boundaries of the several townships shall be and remain as heretofore established by law. Boundaries.

3. That when any suit shall be instituted against any township, a copy of the summons, precept or such other legal process as may be issued against the said township, shall be left with the clerk thereof, thirty days at least before the session of the court to which the same shall be returnable. Process, how served.

4. That the freeholders and inhabitants who are or shall be qualified by law to vote at town meetings, shall have full power, and they are hereby directed and required to assemble and hold town meetings in the respective townships in the counties of Burlington, Monmouth, Salem and Cumberland, on the second Tuesday in March, annually; in the respective townships in the county of Cape May, on the first Tuesday in March, annually; in the respective townships in the counties of Bergen, Essex, Somerset, Middlesex, Hunterdon, Morris, Passaic, Mercer and Hudson, on the second Monday in April, annually; in the respective townships in the counties of Gloucester, Atlantic and Camden, on the second Wednesday in March, annually; in the townships of Montague, Sandyston and Walpack, in the county of Sussex, on the second Monday in March, annually; in the remaining townships in the county of Sussex, on the second Monday in April, annually; in the township of Pahaquarry, in the county of Warren, on the second Monday in March, annually; and in the remaining townships in the county of Warren, on the second Monday in April, annually; and that said town meetings shall be held at such places, in the respective townships, as the electors of such township may have directed and appointed, or shall, from time to time, direct and appoint. (See *Sec. 50*). Town meetings, when held.

5. That every person entitled to the right of suffrage under the constitution, who shall have resided five months in the township next preceding such town meeting, shall be entitled to vote at such meeting, and no other person. (See *Sec. 31*). Who entitled to vote.

6. That between the hours of eleven and twelve of the day of holding the town meetings in the several townships of this state, the electors of every township, so assembled, shall choose, by plurality of votes, some fit person to preside at and superintend such meeting, who shall take care that the business thereof be conducted in a regular and orderly manner, and shall, in case of dispute, determine who have and who have not a right to vote at such meeting according to law. Choose presiding officer.

7. That no person shall behave in a disorderly manner, or interrupt the person speaking at any town meeting by unnecessary noise or conversation; and if any person shall, after notice from the presiding officer, persist in his disorderly behavior, then it shall be lawful for the said presiding officer to direct such disorderly person to withdraw from the meeting, and moreover, such person shall forfeit one dollar for such offence; and such disorderly person, if he refuse or neglect to withdraw, shall, by direction of the said presiding officer, be carried out of the meeting by some of the constables of the said township, and put into a place of confinement, where he shall be detained until such meeting shall be ended; *and further*, that the fines specified in this section, shall be sued for, and may be recovered, with costs, by action of debt, in the name of the clerk of the township, before any justice of the peace of the said county; and that any elector or inhabitant of the said township shall be admitted Duties.

(a) The intention of this section was to make at least thirty days between the service of the summons and the return: the act of March 18th, 1851, (*Ante* p. 854, § 41), having abolished the necessity of regarding terms in the return of writs of summons, a legal service can be made on the township at least thirty days before the return day. On that day the court is, by force of the statute, in session for the return of the writ, *Phillipsburg ads. Raub*, 8 Vr. 48. Penalty for disorder.

(1) For references to boundaries of townships created prior to 1847, see *R. S. Appendix A*. Fines recovered.

as a witness in support of such action, notwithstanding his being a member of such corporation, or interested in the appropriation of the said fine in manner aforesaid.

Make by-laws.

8. That the persons qualified to vote at town meetings shall, at their annual meetings, or at any other meeting duly held for that purpose, make and ordain such regulations and by-laws as the majority of them so assembled shall, from time to time, judge necessary or proper for improving their common lands in tillage, pasturage, or any other way, and directing the use and management, and the times and manner of using their common lands, for making and maintaining such and so many pounds, and at such places as may be necessary or convenient, and to impose such penalties on the offenders against such regulations and by-laws as they shall deem expedient, not exceeding twelve dollars for each offence, to be recovered, with costs of suit, by and in the name of the clerk of the township where the offence shall be committed, by action of debt, before any justice of the peace or any other competent authority, in any other township in the said county or elsewhere; and no such action shall be abated or discontinued by the death or expiration of the office of the said clerk, but may be continued and prosecuted to effect by his successor in office; and all such penalties, when recovered, shall be applied to the use of the township where the offence shall have been committed, in such manner and for such purposes as at their town meetings shall, from time to time, be directed and appointed.

Impose penalties.

Suit not to abate.

By laws recorded.

9. That all such regulations and by-laws shall be entered and recorded by the clerk of such township, in a book by him to be provided for that purpose, and shall remain and be in force until the same shall be revoked or altered, or new made and ordained at some subsequent town meeting; all which alterations, new regulations, and by-laws shall also, from time to time, be entered and recorded as aforesaid, and shall continue in force until revoked, altered, or made and ordained anew, as aforesaid.

Provide for destroying animals.

10. That the persons qualified to vote at town meetings are hereby authorized, at their annual meetings, or any other meeting duly held for that purpose, to make such provisions and allow such rewards for the destruction of wolves, wild cats, foxes, crows, black birds, and other noxious wild animals and birds, as they or the major part of them, so assembled, shall deem necessary or proper.

Raise money, for what purposes.

11. That the persons qualified to vote at town meetings shall be and they are hereby empowered at their annual meetings, or at any other meeting duly held for the purpose, to vote, grant, and raise such sum or sums of money for the maintenance and support of the poor, the building and repairing of pounds, the opening, making, working, and repairing of roads and keeping them in order, in such townships as are authorized to repair their highways by hire, the destruction of noxious wild animals and birds, for running and ascertaining the lines, and prosecuting or defending the common rights of such township, and for other necessary charges and legal objects and purposes thereof, as are or shall be by law expressly vested in the inhabitants of the several townships of this state, by this or some other act of the legislature; which money so voted and granted, shall be assessed, levied, and collected by the same persons, in the same manner, and under the like fees, fines, and penalties, as the money raised in such township by the board of chosen freeholders of the county shall be assessed, levied, and collected, and at such times and in such proportions as the said town meetings, respectively, shall direct and appoint; *provided*, that the said fines and penalties shall, when recovered, be paid to the clerk of the said township, and be applied to the use of the said township, in such manner as shall, from time to time, be directed and appointed at their annual meeting. (a)

How collected.

Proviso.

(a) The whole proceedings of a town meeting are regulated by statute, and they have no power to alter or change them; hence, they cannot require the oath of an overseer of the road to be subjoined to his account, *Mendham v. Losey*, Pen. \*347, \*355, *Pennington, J.* So, they cannot take bonds of constables to enforce the performance of legal duties, except in the case specially provided for by statute, *Middletown v. McCormick*, Pen. \*500, \*504. A tax voted by a special town meeting to pay bounties to volunteers, unauthorized by any special law, where the notice of the meeting did not specify the object, and no specific sum, nor any

certain means of ascertaining the proper amount were determined. *Held*, to be illegal, *State, Fenimore v. Clothier*, 1 Vr. 351. A town meeting has no lawful right to raise money for incidental expenses without specifying what those expenses are. The resolution or order authorizing the tax, must show upon its face that the money is to be raised and applied to some legal object or purpose. *State, Verhule v. Saalmann*, 8 Vr. 156. A vote by the inhabitants of a township at town meeting to raise for schools "all the law allows," as it can be rendered certain, is sufficient, and the assessment made by virtue of it will not be set aside on

12. That the persons qualified to vote at town meetings shall have full power and authority at their respective annual meetings, to elect for such township, by a majority(a) of votes, one clerk, one or more assessor or assessors, provided no such township shall be thereby entitled to more than one vote in the board of assessors of the county, one or more collector or collectors, three or more judicious freeholders of good character to hear and finally determine all appeals relative to unjust assessments in cases of taxation, two freeholders commonly called chosen freeholders,(1) two surveyors of the highways,(b) one or more overseer or overseers of the poor, one or more constable or constables, and so many overseers of the highways and poundkeepers(c) as they shall deem necessary or convenient, and one reputable freeholder as a judge of elections;(2) which said several officers shall hold their respective offices for one year, and until others shall be chosen and legally qualified in their stead; and that in addition to the before mentioned officers, the electors of every corporation, at their respective annual meetings as aforesaid, shall have full power and authority to elect five judicious freeholders resident within the township, who shall be denominated the township committee,(d) a majority of whom shall be a quorum, and shall continue in office one year and until others are chosen in their stead; which committee shall have authority, and it is hereby rendered their duty to examine, inspect, and report to the annual or other town meetings the accounts and vouchers of the township officers, and to superintend the expenditure of any moneys raised by tax for the use of the township, or which may arise from the balance of the accounts of any of the township officers; and provided, that the several officers enumerated in this section may be elected by a plurality of votes, in any annual town meeting which may resolve, or now are or hereafter may be required by law, to vote by ballot.

Officers to be elected.

Township committee.

Their duty.

Proviso.

13. That if any township shall neglect at their annual town meeting to choose any of the officers directed by law to be chosen, or if any of the officers so chosen in any township, shall refuse to serve, or die, or remove out of the said township, or become incapable of serving before the next

Special meetings to fill vacancies, or committee may appoint.

*certiorari, State v. Stickle, 4 Zab. 125. State v. Middletown, 4 Zab. 124.* A resolution at a town meeting to raise for general township expenses as much as the township committee shall direct, or in these words, "ways and means left to the committee," is illegal; and a tax assessed to raise a sum directed by the committee by virtue of such vote is illegal, and will be set aside; the power of directing how much money shall be raised for town purposes, is vested in the town meeting, and cannot be delegated. *Ibid.* Upon the minutes of the proceedings of the town meeting of the township of W., it appeared that the sum of \$400 was to be raised for township purposes, and "for notes and bonds, to be left to the committee." Under this authority the committee ordered \$1,212 to be raised. *Held*, that the town meeting could not delegate its authority to the township committee. *State, Wharton v. Koster, 9 Vr. 308.* The portion of the assessment for notes and bonds set aside. *Ibid.* So, "nine hundred dollars for ways and means and support of the poor," is illegal. *State v. Middletown, 4 Zab. 124.* The meeting ought to order money to be raised for the several purposes expressly authorized by law, by formal resolutions carefully drawn, and recorded in the minutes. *Ibid.* No corporate act under the seal of the township, is required or necessary. *Mendham v. Losey, Pen. \*347, \*352. Pennington, J.*

(a) This means a majority of all the ballots cast. The general rule that persons present but not voting shall not be counted in ascertaining the result, does not apply. *State, Hoagland v. Labaree, 3 Vr. 269, 272.*

(b) See *Supra*, p. 1003, note (a).

(c) A municipal corporation has no power to appoint a poundkeeper, unless expressly authorized by its charter. *White v. Tallman, 2 Dutch. 67.*

(d) Where an act provided that road commissioners should be elected in the same way as other township officers, and that one of them be chosen president of the board, and if a vacancy occurred by death, or by a commissioner becoming non-resident, the township committee was authorized to fill it. Two of the commissioners, Cox and Crane, each having received the same number of votes, the township committee unanimously elected Cox, president of the board. *Held*, legal. *State, Winans v. Crane, 7 Vr. 394.* The act of 1868, authorizing the township committee of M.

township to order money to be raised by tax for payment of an existing indebtedness of the township, does not require the order to be in writing. *State, Verhule v. Saalmann, 8 Vr. 156.* The expense of laying out and opening a public road in M. township, under the act of 1868, (P. L. p. 844), which is to be paid by the town, must, by order of the township committee, be assessed by the assessor of the township in the same manner and at the same time other township taxes are assessed. *Ibid.* The raising of moneys to meet contingencies, is wholly without the jurisdiction of the township committee. *Ibid.* A township committee cannot lawfully expend for other purposes than those of education, the moneys raised or appropriated for a school fund. *Hoboken v. Twinson, 5 Dutch. 65.* A township committee in this state have no power to borrow money on the faith of the township, or to authorize any one to borrow money in the name of the township, or to bind the inhabitants to the payment of money so borrowed. *Musgrove v. Kennell, 8 C. E. Gr. 75.* But if the members of the township committee can persuade any one to loan money necessary for township purposes, they are at liberty to do so; and the borrowing or expenditure of such money will not be restrained. Such borrowing cannot affect the township or any inhabitant, unless the inhabitants, at a regular town meeting, ratify the loan and assume the debt. *Ibid.* The committee ought to keep a record of their proceedings, and make all their orders in writing. *Callahan v. Morris, 1 Vr. 160.* Commissioners being authorized to borrow money "on the faith and credit" of a township, and to execute bonds therefor, "under their hands and seals respectively." *Held*, that power was thereby given to make such bonds in the name of the township. *Morrison v. Bernards, 7 Vr. 219.* An action will not lie against the overseers of the poor for the maintenance of paupers, but must be brought against the inhabitants of the township. *Board v. Cronk, 1 Hal. 119.* A township bond recited that the township officers executing it had been authorized, as the law required, to issue such bond. *Held*, in a suit on the bond, that the township could set up that no such authority had been given. *Hudson v. Winslow, 6 Vr. 437.* See *Supra*, p. 999, note (a); p. 16, note (a); p. 148, note (a).

(1) By act of February 25, 1851, (P. L. p. 97), but one chosen freeholder to be elected for each township in the counties of Monmouth and Hunterdon; and by act of March 5, 1852, (P. L. p. 141), in Burlington, Somerset and Warren; and by act of March 4, 1868, (P. L. p. 218), in Mercer; and by act of February 28, 1871, (P. L. p. 318), in Bergen; and by act of March 8, 1871, (P. L. p. 403) in Salem. In the county of Hudson by act of March 23, 1875, (P. L. p. 324), chosen freeholders are elected by assembly districts.

(2) See Title Elections, sec. 14 and 15.

annual meeting, then it shall be lawful for the persons qualified to vote at town meetings to assemble together, from time to time, and hold town meetings for the purpose of supplying such vacancies; and in case of neglect of the electors for fifteen days after such omission, to choose, or after the death, removal, refusal to serve, or inability of any township officer, the township committee shall, by writing under their hands and seals, appoint a person to fill such vacancy until the next annual town meeting.<sup>(a)</sup>

Who to give notice.

14. That the clerk of the township, upon notice of any such omission, refusal, removal, incapacity or death, or if the office of clerk be vacant, then any justice of the peace of the county, residing in the said township, upon notice thereof, shall give notice, in the manner mentioned in the following section, of a town meeting to be held in the same township for the purpose aforesaid.

How notice given.

15. That whenever it shall be necessary in the opinion of the township committee, to hold a town meeting for any of the purposes specified in this or any other act, at any time between the annual meetings, it shall be the duty of the clerk of such township to give notice thereof in writing under his hand, mentioning the time, place and object or purpose of such meeting, to be fixed up at four or more of the most public places in the said township, at least eight days before the time therein appointed for holding such meeting.

Clerk to keep minutes.

16. That the clerk of every township shall enter, in a book to be kept for the purpose, the names of the persons and the offices to which they are elected at town meetings, and the proceedings of such meetings, which shall be signed by the presiding officer of the meeting and attested by the clerk.<sup>(b)</sup>

Transmit names to county clerk, and set up copies.

17. That the clerk of such township shall, within ten days after every election, transmit to the clerk of the court of common pleas of the county, a certified list of the names of the persons and the respective offices to which they are elected; and shall, within five days after the said election, set up fair and true copies of such list in three or more of the most public places in such township, which shall be considered as sufficient notice to the said persons of their being elected to the said offices respectively.

Committee to notify appointments.

18. That if the appointment to office is made by the township committee in the manner prescribed by law, then it shall be the duty of the said committee to give personal notice to, or cause notice in writing to be left at the place of abode of the person so appointed, of such his appointment, within five days after the same, and also, within the said time, to transmit an account of such appointments to the clerk of the said court of common pleas.

Oath to be taken by.

19. That every clerk of the township, surveyor of the highways, assessor, commissioner of appeals in cases of taxation, overseer of the poor, and constable, hereafter elected or appointed as aforesaid, shall, before he enters upon the execution of his office, and within six days after notice of such election or appointment, take and subscribe an oath or affirmation,<sup>(c)</sup> before some justice of the peace residing in or near the said township, in the form hereinafter prescribed, that is to say, every clerk shall take and subscribe an oath or affirmation in the following form, to wit:

(a) This section does not authorize the committee to accept the resignation of any township officer, *State, Reeves v. Ferguson, 2 Vr. 107, 123*. It is not sufficient ground for setting aside the return of a road, that one of the surveyors was not appointed under the seals of the committee, *Hoagland v. Culvert, Spen. 387. State v. Meyers, 5 Dutch. 392*.

(b) The clause requiring the moderator to sign the township book, is merely directory; the book is competent evidence without such signature, *State, Reeves v. Ferguson, 2 Vr. 107*. The record of the town meeting or a sworn copy thereof, is the best evidence of the election of a constable or other township officer, *Prickett's Case, Spen. 134*. The town clerk's oath verifying a copy of a township resolution, is sufficient proof, *State v. Clothier, 1 Vr. 351*. If the time of holding the town meeting does not appear on the record, it may be shown by parol, *State v. Bentley, 3 Zab. 532*.

(c) Surveyors of the highways must not only take but must subscribe the oath of office required by the statute, or the return of a road laid out by them will be quashed, *Fisher v. Allen, 3 Hal. 301. State v. Barnes, 1 Gr. 268. Hoagland v. Culvert, Spen. 387. State v. Davis, 1 Gr. 10. Road in Middlesex, 1 South. \*396. State v. Lawrence, 2 South. \*850. Matter of*

*Highway, 1 Harr. 391*. The use of the word "declare" in the oath of a surveyor is synonymous with "promise," required by the statute, and is not cause for setting aside the return, *Bassett v. Denn, 2 Harr. 432*. Nor the error of the township clerk in filing copies instead of the originals, *Ibid.* Nor where the body of the official affirmation is "promise and swear (or affirm)," and the jurat "affirmed before me," &c., *State v. Shreve, 1 South. \*297*. Although a quorum of duly qualified surveyors sign the return, yet it is void if they have acted with an unqualified person, *State v. Willingborough Road, Coxe 128*. An oath that he will perform the duties of "surveyor of highway for the township of O." is a fatal departure, *State v. Davis, 1 Gr. 10*. So also an oath that he will "execute the office of surveyor of the highways in the township of H., in the county of H.," &c., *State v. Hart, 2 Harr. 185, 186*. So also an oath that he will "execute the office of a surveyor of the highway, without favor or partiality, of the township of E., in the county of Salem," *State v. Ayres, 3 Gr. 479*. If the oath be signed by the surveyor with his real name, a mistake in spelling such name in the body of the oath, will not vitiate it, *Hoagland v. Culvert, Spen. 387. Supra, p. 1018, § 97*.

I, ———, clerk of the township of ———, in the county of ———, do Clerk.  
solemnly and sincerely promise and swear (or affirm), that I will faithfully  
and honestly keep all the papers, writings, books and records, by virtue  
of my office committed, and which, from time to time, shall be committed  
to me; and that I will, in all things, to the best of my knowledge and  
understanding, perform the duties of said office of clerk, without favor or  
partiality.

And every surveyor of the highways shall take and subscribe an oath Surveyor.  
or affirmation in the following form, to wit:

I, ———, do solemnly and sincerely promise and swear (or affirm), that  
I will, in all things, to the best of my knowledge and understanding, well,  
justly and faithfully execute the office of a surveyor of the highways,  
without favor or partiality.

And every assessor shall take and subscribe an oath or affirmation in Assessor.  
the following form, to wit:

I, ———, do solemnly and sincerely promise and swear (or affirm), that  
I will truly, faithfully, honestly, and impartially value and assess the  
ratable estates in the township of ———, in the county of ———, and  
that in making such valuations and assessments, I will, to the best of my  
knowledge and judgment, observe the directions of the law respecting  
the same; and that I will make a true return of all such assessments to  
the board of assessors, at their meeting, required to be held on the first  
Monday in September, by the third section of "An act concerning taxes."

And every freeholder to hear and determine appeals relative to unjust Commissioner of  
assessments in cases of taxation, shall take and subscribe an oath or appeals.  
affirmation in the following form, to wit:

I, ———, do solemnly and sincerely promise and swear (or affirm), that  
I will well, truly, and faithfully execute the trust reposed in me, and per-  
form my duty, as a commissioner of appeals in cases of taxation, for the  
township of ———, in the county of ———, according to the best of my  
knowledge and understanding, without favor or partiality.

And every overseer of the poor shall take and subscribe an oath or Overseer of poor.  
affirmation in the following form, to wit:

I, ———, do solemnly and sincerely promise and swear (or affirm), that  
I will, in all things, to the best of my knowledge and understanding, well  
and faithfully execute the trust reposed in me, as an overseer of the poor  
of the township of ———, in the county of ———.

And every constable shall take and subscribe an oath or affirmation in Constable.  
the words following, to wit:

I, ———, do solemnly and sincerely promise and swear (or affirm), that  
I will well and truly serve the state of New Jersey in the office of con-  
stable for the township of ———, in the county of ———; that I will  
honestly and impartially summon, empanel and return good and lawful  
men for juries, able and sufficient, and not suspected or procured, as is or  
shall be directed by law; that I will, to the utmost of my power, faithfully  
and without delay, execute all writs, precepts, process, warrants and exe-  
cutions to me directed, and which shall come to my hands, and truly  
return the same; that, in the exercise of my office, I will do no wrong to  
any, but will do right to all, and take none but lawful fees; that I will  
truly, diligently and honestly, without fraud, deceit, oppression, favor or  
partiality, do, execute and perform all services, acts and duties of my said  
office, to the best of my knowledge, judgment and ability.

20. That every justice of the peace, before whom such oath or affirmation Justice to certify  
shall be taken and subscribed, shall, without fee or reward, certify, oath, etc.

under the said writing, the day and year when such oath or affirmation  
was taken, and subscribe his name thereto, and then deliver the said  
certificate to the officer taking such oath or affirmation, who shall, within  
six days thereafter, transmit or deliver such certificate to the clerk of the To be sent to  
township for which such officer was elected or appointed, who shall file clerk.  
every such oath or affirmation, except that of surveyors of the highways;  
and the said clerk shall, within twenty days after every election for the  
surveyors of the highways, transmit to the clerk of the court of common Of surveyor's  
pleas of the county, to be by him filed, the oath or affirmation of such oath.  
surveyor or surveyors, as may have been presented to him within the time

- prescribed by law, a copy of which oath or affirmation shall be first filed by the said town clerk, and remain of record in his office.(a)
- What deemed a refusal to serve. 21. That if any clerk, surveyor, assessor, commissioner of appeals, overseer of the poor or constable, shall not take and subscribe such oath or affirmation as aforesaid, or shall not transmit or deliver the same to the clerk as aforesaid, within the time hereby limited, or if any officer elected or appointed as aforesaid, shall not give such security as is or shall be by law required, within the time for that purpose limited, then and in every such case such neglect shall be deemed a refusal to serve(b) in such office, and the township in which such officer was chosen, or township committee who appointed him; as the case shall require, may thereupon proceed to a new election or appointment.
- New election. 22. That if any person hereafter elected or appointed a clerk, surveyor, assessor, collector, commissioner of appeals, chosen freeholder, overseer of the poor, constable, overseer of the highways or poundkeeper as aforesaid, shall refuse to accept or serve in such office, or if any such clerk, surveyor, assessor, commissioner of appeals, overseer of the poor or constable, shall proceed in the execution of such office before he shall have taken and subscribed such oath or affirmation as aforesaid, or if any officer, so elected or appointed, shall proceed in the execution of his office before he shall have given such security as is or shall be required by law, then every person so neglecting or refusing, or doing, shall forfeit fifteen dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the inhabitants of the township in and for which such officer was elected or appointed.
- Forfeit for refusal to serve, or acting without qualification. 23. That upon the death or expiration of the office of clerk of any township, all the papers, writings, books and records, belonging to the said office, shall be delivered to the successor in office, on the oath or affirmation of the preceding clerk, or, in case of his death, on the oath or affirmation of his executors or administrators; and if any such clerk, his executors or administrators, shall refuse or neglect to deliver the same, on oath or affirmation as aforesaid, being lawfully demanded, then every such person shall forfeit sixty dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the inhabitants of the said township.
- Papers, etc., of clerk to be delivered to successor. 24. That it shall be the duty of the presiding officer at every town meeting, immediately after his election and taking the chair, to cause the seventh and twenty-ninth sections of this act to be read to the persons then assembled.
- Seventh and twenty-ninth sections to be read. 25. That when any person shall hereafter be elected to the office of collector in any township within this state, he shall, before he enters upon the duties of said office, enter into bond to the inhabitants of said township, in their corporate name, with one or more sufficient surety or sureties, being a freeholder or freeholders, and resident in said township, to be approved of by the township committee of said township, and in such sum as the said township committee shall direct, conditioned for the faithful performance of all the duties of said office of collector of said township, according to law.(c)
- Collector to give bond. 26. That if any person chosen at any town meeting by virtue of this act, shall serve in any town office for one year, or pay a fine or forfeiture that the law inflicts for refusing to accept or serve in such office, such person shall not be compelled to serve in the said office, nor to pay any fine or forfeiture for refusing to accept or serve in the said office, for the space of five years thereafter.(d)
- One year's service to exempt.

(a) Although a surveyor has taken and subscribed the oath before a justice, and filed the same in due time, but the justice has failed to certify when it was taken, it is fatal to the return, and cannot be cured by a supplemental certificate of the justice, *State v. Northrop*, 3 *Harr.* 271. *State v. Green*, 3 *Gr.* 88, case reversed May 21, 1842. *Ante* p. 1013, § 97. So also if it do not appear either upon the face of the affidavit or otherwise, that the person before whom it was sworn was a justice of the peace, *State v. Hutchinson*, 5 *Hal.* 242. *State v. Green*, 3 *Gr.* 88. *State v. Rogers*, cited by *Hornblower, C. J.*, 3 *Gr.* 90. That the town clerk did not keep a copy of his oath of office, or that it does not appear on the oath of office where it was taken, or that the officer was a

justice, provided these appear *aliunde*, is not sufficient to set aside the return, *State v. Bergen*, 1 *Zab.* 342. *State v. Ayres*, 3 *Gr.* 479, 481. Sworn copies of the oaths are sufficient—it is not necessary to produce the originals. *State v. Hutchinson*, 5 *Hal.* 242. But a certificate as to them made by the clerk of the common pleas, is not evidence, *State v. Calk*, 4 *Zab.* 516. See *Hoppeck v. Wilson*, 1 *South.* \*149, \*150, (a).

(b) See *Matter of Public Road*, 1 *South.* \*396, 398, (a).

(c) See *McEachron v. New Providence*, 6 *Vr.* 528

(d) This section does not render a person ineligible for successive years, but exempts him from compulsory service for five years after one service, *State v. Holiday*, 3 *Hal.* 265, 267.

27. That whenever the inhabitants of any of the townships in this state, at their annual town meeting, held on the day appointed by law for holding the same, shall deem it expedient to change the hour of opening the said meeting, it shall and may be lawful for them so to do, and to proceed to choose the presiding officer; which time so agreed on shall be the time of meeting, until it be by the said inhabitants changed to some other hour; *provided*, that the hour fixed on shall not be earlier than ten o'clock in the forenoon, nor later than two o'clock in the afternoon of said day.

Hour of meeting may be changed.

Proviso.

28. That it shall and may be lawful for the inhabitants in the several townships in the county of Cape May, at their annual township meetings, to elect three surveyors of the highway for each and every township in said county.

Surveyors in Cape May.

29. That hereafter it shall be lawful for the inhabitants in each of the townships of this state, duly qualified to vote at town meeting, at their annual meetings, to vote, grant and raise, in the same manner as other moneys for town purposes are authorized to be raised, such sum of money as the majority of said meeting shall agree upon, to be laid out and expended, under the direction of the town committee in each township, for the education of such poor children as are paupers belonging to said township, and the children of such poor parents resident in said township as are or shall be, in the judgment of said committee, unable to pay for schooling the same; and also, for the erection and repairing of one or more public school houses, or for the establishment of such free schools, and their support, as are or shall be in the judgment of said committee necessary.

Money for education and school houses.

30. That the board of assessors of the several counties shall annually make net abstracts of ratables for their respective counties, from the assessments returned.

Abstracts of ratables.

[Sec. 31 repealed, see *post*, Sec. 37].

#### Supplement.

Approved March 7, 1850. P. L. 1850, p. 291.

31. SEC. 1. That every person entitled to the right of suffrage under the constitution, who shall have resided five months in the county next preceding such town meeting, and who actually resides in the township where he claims a vote, shall be entitled to vote at such meeting, and no other person.

Who entitled to vote at town meetings.

32. SEC. 2. That so much of the fifth section of the act to which this is a supplement, as conflicts with the provisions of this act, be, and the same is hereby repealed.

Part of section five repealed.

#### Supplement.

Approved February 11, 1852. P. L. 1852, p. 22.

33. SEC. 1. That the clerks of any township or ward in this state shall have power to take the official oath or affirmation of any township or ward officer, duly elected or appointed in their respective districts, now required to be taken and subscribed before some justice of the peace; and shall give the like certificate thereof, and deliver the same to such officer as is required by law, which shall have the like effect as if taken before and made by such justice, and that without fee or reward.

Clerk of township or ward may administer official oaths to township officers.

#### Supplement.

Approved March 4, 1853. P. L. 1853, p. 287.

34. SEC. 1. That it shall be lawful for the presiding officer of any township or ward meeting, in which a clerk of said township or ward shall be elected, to administer the official oath or affirmation to such clerk.

Oath of clerk.

#### Supplement.

Approved March 4, 1864. P. L. 1864, p. 173.

35. SEC. 1. That it shall be the duty of the clerks of the several townships in this state, within sixty days after the town meeting at which they shall have been elected, to make out from the papers and records of the township, a full and complete account of the receipts and expenditures of the township committee during the preceding year, and to cause the

Township clerk to make out account of receipts, &c., of township committee.

## TOWNSHIPS.

same to be published in one or more of the newspapers circulated in said townships; which report shall be verified by the oath of said clerks respectively.

**Supplement.**

Approved April 5, 1865.

P. L. 1855, p. 970.

Penalty for failure of clerk to make out account.

36. SEC. 1. That if any township clerk shall neglect to perform the duty of publishing a full and complete account of the receipts and expenditures of the township committee, as specified by the act to which this is a further supplement, he shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, one-half to go to the township, and one-half to the person who brings suit for the same; and the said publication shall be made in the paper or papers of the county in which the township lies, designated by the governor to publish the public laws of this state.

**Supplement.**

Approved April 7, 1868.

P. L. 1868, p. 840.

Compensation of township committee and clerk.

37. SEC. 1. That the thirty-first section of the act to which this is a supplement, be and the same is hereby repealed, and the members of the township committee of the several townships of this state shall hereafter be allowed and paid two dollars per day each, and the clerk of the several townships as aforesaid, shall be hereafter allowed and paid three dollars per day by their respective townships for the services rendered in performing their several township duties required of them by law.

**Supplement.**

Approved March 10, 1869.

P. L. 1869, p. 343.

Overseers of the poor to give bonds.

38. SEC. 1. That when any person shall hereafter be elected to the office of overseer of the poor in any township within this state, he shall, before he enters upon the duties of his office, enter into bonds to the inhabitants of said township, in their corporate name, with one or more sufficient surety or sureties, who shall be a freholder or freeholders, and resident in said township, to be approved of by the township committee of said township, and in such sum as the said township committee shall direct, conditioned for the faithful performance of all the duties of said office of overseer of the poor of said township according to law.

**Supplement.**

Approved April 4, 1872.

P. L. 1872, p. 71.

Chosen freeholders to file with township committee detailed account of money expended by them.

39. SEC. 1. That from and after the passage of this supplement, it shall be, and it is hereby made the duty of the chosen freeholders or freeholder, in each and every township of this state, to make out and file with the township committee of their respective townships, a full, detailed and correct account and statement of all moneys expended by them or appropriated in their respective townships under and by direction of the board of chosen freeholders of their respective counties, for the year then elapsed, for the construction or repair of bridges or other county purposes, which statement or account of said expenditure shall be filed as aforesaid by said chosen freeholders or freeholder with said township committee, at least ten days before the annual town meeting held in each of said townships, under a penalty of fifty dollars for each omission of said duty, to be recovered of such delinquent officers by action of debt, to be brought by and in the name of said township for the use thereof.

Duty of the township committee.

40. SEC. 2. That it shall be the duty of the township committee of each of the townships of this state to read said statement and account so filed with them as aforesaid to the inhabitants of said township, when assembled by law in their annual town meetings, and to file the same among the township records with the clerk thereof.

**An act to authorize the inhabitants of the several townships of this state to vote by ballot at their town meetings.**

P. L. 1860, p. 670.

Approved March 22, 1860.

When townships authorized to hold elections by ballot.

41. SEC. 1. That the inhabitants of the several townships of this state, authorized by law to vote at town meetings, are hereby authorized and required, when a majority of the legal voters assembled at any annual

town meeting shall decide that the next or subsequent annual town meetings thereafter shall be held by ballot, to so hold their elections, and not otherwise, which election by ballot shall be so held, until it shall be determined in the same manner that their next or subsequent annual town meetings thereafter shall not be held by ballot; and when held by ballot, it shall be lawful to elect at their annual town meetings the following officers, until otherwise required by law, whose qualifications shall be the same as are or may be fixed by law, that is: a township clerk, a judge of election, an assessor, a collector, one or more chosen freeholders, two surveyors of the highways, three commissioners of appeal, one or more overseers of the poor, as many overseers of the highway as there are road districts, one or more poundkeepers, a township committee consisting of three or more persons, a town superintendent of public schools, as many justices of the peace as the township may be constitutionally entitled to elect, one or more constables; and shall also, upon the same ballot, vote for the amount of money to be raised for the support of the poor, for school purposes, for the repair of roads, the amount of dog tax, and all other money necessary for township purposes, and for the places of holding the next annual town meetings, and the election of state and county officers. (See *Sec. 50*).

Officers to be chosen.

42. SEC. 2. That the judges of election elected at the last, or any future town meeting, shall preside at and conduct the election at the next ensuing annual town meeting, and the clerk of the said township shall be the clerk thereof.

Officers of election.

43. SEC. 3. That the judge of election elected at the last, or any future town meeting, shall preside at and conduct the election at the next ensuing annual town meeting, and the clerk of the said township shall be the clerk thereof.

Judge of election

44. SEC. 4. That the election shall open at nine o'clock in the morning and close at three o'clock in the afternoon of said day, except when justices of the peace are elected, when the poll shall open and close at the same hours as at state elections, and be conducted in the same manner, and be subject to the same rules as elections for state and county officers are or shall be, and the same duties shall devolve upon the judge of election and the clerk as are to be performed by the board of election and the clerk in other elections; they shall take the same oath or affirmation as far as applicable, be invested with the same powers and be liable to the same penalties, the same qualification for voters shall be required, and the result ascertained in the same manner, and stated according to law.

Election, when to be opened and closed.

45. SEC. 5. That a plurality of votes shall be sufficient to elect any officer, or to fix the place of holding the town meetings of the state and county elections, but a majority of all the votes cast shall be required to determine an amount of money to be raised or specified; and in case there shall be a neglect or failure to elect any officer by the town meeting, or to fix the place of holding the next town meeting, or state and county elections, or in case of the refusal of any person elected to accept of the appointment, or if a vacancy occurs from any other cause, or in case two or more have an equal number of votes, for the same office, the town committee shall, at their next meeting thereafter, fill such vacancy, determine upon such place, elect between those having an equal number of votes, and determine the amount or sum to be raised or specified, unless they shall deem a special town meeting for these purposes advisable, and in that case shall have power to call such special town meeting as now provided by law.

Plurality of votes to elect.

Vacancies, how filled.

46. SEC. 6. That when the township committee shall fill a vacancy, or elect in case of a tie between candidates, they shall immediately notify the clerk of the township, who shall enter the same on the township book containing the minutes of the proceedings of the town meetings, and shall also notify the person or persons appointed or chosen, and shall transmit a statement thereof to the clerk of the county.

Clerk of township to notify persons appointed to fill vacancies.

47. SEC. 7. That the reports of the township committee, the overseers of the poor and town superintendent of public schools, shall be presented to the township committee and filed and preserved by the town clerk; in posting up the list of officers elected, as required by law, the clerk shall

Reports of township officers, when presented and filed.

add thereto the result of the election in other particulars; the first election under this act shall be held at the place appointed at the last town meeting, and all special town meetings at the place of holding the last preceding annual town meeting; the same ballot box shall be used at the town meeting, and provided by the clerk, which is used at the state and county elections; the judges of election and clerk shall receive the same compensation for attending any town meeting as for attending a state or county election, and the township committee may allow the clerk such compensation for the additional duties required by this act, as they may deem reasonable.

[Sec. 8 repealed].

**Supplement.**

Approved March 8, 1864.

P. L. 1864, p. 187.

Judges of election and clerk not eligible to office.

48. SEC. 1. That the judge or judges of election, and the clerk of the township, referred to in the second and third sections of the act entitled, "An act to authorize the inhabitants of the several townships of this state to vote by ballot at their town meetings," approved March twenty-second, in the year one thousand eight hundred and sixty, shall not be eligible to any office at said election, except that of judge of election or clerk of the township to which they may be elected.

**An act to provide for the payment of interest on township bonds.**

Approved April 20, 1876.

P. L. 1876, p. 227.

Township committees authorized to order assessments for payment of interest. &c.

49. SEC. 1. That the several township committees of this state shall have power to order the assessor and collector in their respective townships, annually, to assess and collect at the same time and in the same manner that other township taxes are assessed and collected, such sums as in their judgment may seem necessary for the payment of interest on any township bonds at present issued or which may be hereafter legally issued.

**An act concerning townships and township officers.**

Approved April 21, 1876.

P. L. 1876, p. 297.

Time of holding annual election for township officers.

P. L. 1877, p. 67.

Proviso.

50. SEC. 1. That after the first day of January, one thousand eight hundred and seventy-seven, all town meetings in the several towns and townships of this state, for the election of township officers, shall be held on the second Tuesday of March, in each and every year; and that at such elections the vote shall be by ballot, and the same shall be held and conducted in the same manner that the general elections are held and conducted; *provided, however,* that this section shall not apply to towns or townships in any county of this state, where chosen freeholders are elected by assembly districts.

Election of township committees.

P. L. 1877, p. 60.

Their powers and duties.

51. SEC. 2. That all such town meetings held after said first day of January, one thousand eight hundred and seventy-seven, the several town and township committees to be voted for and elected in the said towns and townships shall consist of three persons in towns and townships containing less than two hundred legal voters, and in towns and townships having three hundred or more legal voters shall consist of five persons; and the said committees, when duly elected, appointed and qualified, shall have power and authority to appoint one of their number to be the chairman of said committee, and one to be treasurer thereof; the chairman of the said committee shall preside at all the meetings thereof, and the clerk of the township shall act as clerk of said committee and keep a record of the proceedings, and shall record the same in the town book; the treasurer of the said committee shall be the custodian of the moneys of such town or township, and all moneys which the said committee are by law authorized to receive and disburse shall be paid to him, and shall be held by him subject to the order of said committee and paid out by him on their order; and he shall when required, and at the end of his term of office, account to the said committee for the moneys received by him as such treasurer, and pay over the balance in his hands unexpended, to such person as may be appointed to succeed him, on demand; and such treasurer shall give bond to the inhabitants of such town or township

Treasurer to give bonds.

in such sum and with such surties as the said committee shall approve, conditioned for the faithful discharge of all the duties of his office, and for the payment by him on demand, to his successor in office, or to such person as the said committee shall designate and appoint, of such moneys remaining in his hands not paid out on the order of said committee, and upon the further condition that such treasurer render at all times when called upon by the said committee, and at the end of his term of office, a just and true account of all moneys received and paid out by him as aforesaid, which bond shall be filed in the office of the clerk of the county in which such town or township is, the same having been first approved by the said town committee and such approval endorsed on said bond; *provided, however*, that the provisions of this act shall not apply to any township which is divided into wards or districts, and in which some or all of the members of the township committee are elected from, in and by such wards or districts.

Proviso.

52. SEC. 3. That all the towns and township committees now acting or to be hereafter elected or appointed prior to the said first day of January, eighteen hundred and seventy-seven, shall have the power and authority to appoint a chairman and treasurer as in the preceding section mentioned, and the duties and responsibilities of such chairman and treasurer shall be the same as therein set forth.

Appointment of chairman and treasurer.

53. SEC. 4. That in all cases where money raised by taxation remains in the hands of any person or persons unexpended, and the same cannot for any reason be used for the purpose for which it was raised, and in all cases in which the money so raised is held in trust for the town or township, and is not needed or cannot be used for the purpose for which it was raised, every person or persons holding such moneys shall on demand pay the same to the treasurer of the town or township committee, who in case of refusal is hereby authorized to sue for and collect the same, in any court having jurisdiction thereof, in his own name as such treasurer, to and for the use of the said town or township; and the said treasurer shall hold the said moneys subject to the order of the said committee, and the committee may appropriate and use the same for the benefit of said town or township as they may deem best.

What moneys raised by taxation to be paid to treasurer.

54. SEC. 5. That whenever it is deemed expedient to issue town or township bonds for any lawful purpose, such bonds shall be issued by such committee, and shall be signed by the chairman thereof and countersigned by the treasurer, and numbered and registered by him in a book to be kept for that purpose; *provided, however*, that before any such bonds shall be made or issued, the following conditions shall have been complied with and observed: a petition requesting the said committee to issue such bonds, specifying the amount to be issued and the purpose for which they are to be used, shall be presented to the said committee, signed by taxpayers of the said town or township (not including such persons as pay a poll tax only), representing a majority in number and amount of the taxpayers, as aforesaid, and taxable property of said town or township, which petition shall be verified by the oath of the assessor of the said town or township, that it is so signed; and before the issuing of the bonds as hereinafter provided, said petition and affidavits shall be recorded by the town clerk and filed in the office of the county clerk, and such petition and affidavits or a certified copy thereof shall be competent evidence of the facts therein set forth, in any court of this state; the said committee shall, on receiving such petition, cause a resolution to issue such bonds to be submitted to the legal voters of such town or township, by causing such resolution to be written or printed on ballots, underneath which shall be written or printed the words "for the above resolution" or "against the above resolution," which vote may be taken either at the annual town meeting or at a special town meeting to be called by the said committee for that purpose.

Bonds, how issued and signed.

Proviso.

Conditions.

Resolution shall be submitted to vote.

55. SEC. 6. That in case such vote is taken at the regular annual town meeting, the said resolution may be printed or written, or partly printed or partly written, on the ballots used at such town meeting; and in case a special town meeting is called for that purpose, the ballots to be used shall contain only the said resolution, and the words thereunder, as men-

Mode of submitting resolution.

Notice to be given of special town meeting.

tioned in the preceding section; and the said committee shall give at least ten days' notice of such special town meeting, specifying the time and place where such town meeting shall be held, and the purpose and object thereof, by notices printed or written, posted in five or more of the most public places in said town or township; and the result of the said town meeting, as to the said resolution, shall in either case be certified to the said committee by the judge of election presiding at such town meeting, and the town clerk, under their respective hands; and in case a majority of the legal voters, as shall appear by such certificate shall have voted for such resolution, then such committee shall proceed to issue such bonds forthwith, and use the same for the purposes expressed in said resolution; and all proceedings in relation to said petition, said resolution, and the vote thereon, and the issue of said bonds, shall be recorded at length in the town books by the town clerk, and such bonds shall not be sold for less than ninety-five per centum of their par value.

Manner of holding and conducting special town meeting.

56. SEC. 7. That in case a special town meeting be held for the purpose mentioned in this act, the same shall be held and conducted in the same manner in which the annual town meeting is held and conducted, and that the expense thereof shall be paid in the same way.

#### Supplement.

Approved March 2 1877.

P. L. 1877, p. 47.

When township divided, township election to be held in each district.

57. SEC. 1. That when any township in this state has been or may be hereafter divided into voting districts in accordance with the seventeenth and eighteenth sections of "An act to regulate elections," approved April eighteenth, one thousand eight hundred and seventy-six, it shall be lawful to hold the annual town meetings, and any special town meetings legally called in each election district so set off, for all township officers and measures eligible or proper to be voted for at the township elections.

Mode of canvassing the votes of the townships.

58. SEC. 2. That the judges of election of each district and the clerk of the township shall meet within two days after the holding of such elections, at the polling place in the district in which the said clerk resides, and the said judges, when so met, shall cast up and add together the votes polled in the several districts, and the result thus determined shall be written out and signed by the judges, and a copy of the same, duly attested by the clerk of the townships, shall then be delivered to the said clerk, who shall record and dispose of the same as required by law.

#### Supplement.

Approved March 7, 1877.

P. L. 1877, p. 58.

Township committee may contract with aqueduct board for supply of water, &c.

59. SEC. 1. That it shall be lawful for the township committee of any township of this state, adjacent to any city thereof, to contract with the aqueduct board or board of water commissioners of such city, for the laying of water pipes and the erection of hydrants and other necessary apparatus (where not already laid or erected), for the supply of water through any street or streets within such township, and to allow to such board, as compensation therefor, a rate of interest not exceeding ten per centum per annum on the cost of the same, and to cause the amount of such annual compensation to be assessed upon the taxable real estate lying upon the line of such street or streets, and within three hundred feet therefrom; which amount shall be assessed by the assessors of such township and collected by the collector thereof, under the direction of said township committee, as other taxes are assessed and collected in said township.

#### An act in relation to assessments in townships.

Approved March 9, 1877.

P. L. 1877, p. 227.

Collection from municipal corporations of moneys paid for assessments for improvements, &c., stayed and delayed in certain cases.

60. SEC. 1. That whenever the cost, damages and expenses of any improvement other than for the laying of sidewalks in any township in this state, made under and by virtue of the provisions of any special law of this state, have been assessed wholly upon the line of such improvement or upon the owners of the lands along such lines, or where assessments for benefits for such local improvements have been or may hereafter be set aside by the courts of this state, any owner or owners of any lands

so assessed who shall have paid or shall hereafter pay the sums of money so assessed against them or their said lands for such improvements, shall be stayed and delayed in the collection of such moneys from such municipal corporation until such time as a re-assessment for benefits for such improvements shall have been made as hereinafter set forth; *provided, however*, that interest upon the sums of money so paid as aforesaid for such assessments shall be collected on final settlement from said municipal corporations at the rate of seven per cent. per annum from the date of the payment of said assessments up to the time of final adjustment; *and provided further*, that such re-assessment shall be made within two years from and after the passage of this act; in all cases where such void assessments have been made or assessments so set aside, and in cases where assessments for benefits for local improvements shall be hereafter set aside, such re-assessments shall be made and completed within twelve months from the date of the setting aside of said assessments; *and provided further*, that in cases where such re-assessments are made and completed within the time limited in this act for the refunding of said moneys, the said moneys so as aforesaid paid shall become at once due and payable, and shall be applied in settlement of said re-assessments, and the balance, if any, refunded to the person or persons entitled legally thereto.

61. SEC. 2. That in all cases in which such re-assessment shall be necessary, and in all cases in which an assessment for costs, damages and expenses which have been heretofore incurred, or which may be hereafter incurred, for any public improvement in any such township authorized by any special law as aforesaid shall be necessary, the township committee of the township in which such assessments or re-assessments shall be necessary to be made shall cause notices to be set up in three of the most public places in such township, one of which shall be along the line of such improvement, which notices shall state that application will be made on a certain day and place, in such county therein named, to the circuit court of the county in which such township is situate for the appointment of three disinterested freeholders, resident in such county, as commissioners to make such re-assessment, and shall be signed by the clerk of such township and set up as aforesaid at least five days prior to the time specified therein for such application; and such circuit court, when applied to as aforesaid, upon due proof that such notices have been set up as aforesaid, on which the judgment of such court shall be final and conclusive, is hereby authorized and required to appoint three freeholders as aforesaid as such commissioners, by rule entered in the minutes of such circuit court; and in case of death, resignation, refusal to serve, or disability of any such commissioner, the vacancy shall be filled as soon as may be by said court on application.

62. SEC. 3. That as soon as may be after such appointment such commissioners shall proceed to make such re-assessment or assessment, and in so doing shall assess upon all the tracts or lots of land and real estate benefited by such improvement such proportion of such costs, damages and expenses as will be equal to the amount of benefits actually acquired by said lands and real estate from such improvement, proportioned equitably to the benefit each of such tracts or lots shall be deemed to acquire, and shall make a report of their proceedings and assessments to such court within thirty days after their appointment; and upon the coming in of any such report, signed by the said commissioners, or any two of them, the said court shall cause notice to be given as it shall direct of the time and place of hearing any objection that may be made to such assessment, and after hearing any matter which may be alleged against the same the said court shall, by rule or order, either confirm the said report or refer the same to the same or to new commissioners, to be appointed by the said court, to reconsider the subject matter thereof; and the said commissioners to whom the said report shall be so referred shall return the same report corrected and revised, or a new report to be made by them in the premises, to the said court without unnecessary delay, and the same, on being so returned, shall be confirmed or again referred by said court in manner aforesaid as right and justice shall require, and so from time to time until

Proviso.

Proceedings in cases in which re-assessment shall be necessary.

Public notices to be set up.

Appointment of commissioners.

Commissioners shall proceed to make re-assessment or assessment equal to amount of benefits actually acquired.

Report to be made to the circuit court.

Report when confirmed, to be final and conclusive.

a report shall be made or returned in the premises which the said court shall confirm, and such report, when so confirmed by said court, shall be final and conclusive, as well upon the said township as upon the owner of any land and real estate affected thereby; and the said court shall thereupon cause a certified copy of said report to be transmitted to the clerk of such township, with a certified copy of the rule of said court confirming said report, and the assessment so made shall be thereupon collected as authorized by the special law under which such costs, damages and expenses were incurred; and in case the said costs, damages and expenses shall exceed the amount of said benefits, such excess shall be a debt upon and paid by the township in which such improvement is made out of moneys raised by general taxation for that purpose.

Compensation to the judge.

63. SEC. 4. That the judge of the said court who shall perform the services aforesaid shall receive the following compensation, to wit: for the appointment of the said commissioners, the sum of five dollars; for the hearing of the objections to any report, the sum of five dollars; for every day he shall sit to hear the same and upon the confirmation of any such report, the sum of five dollars, to be paid by the township in which such improvement is situate.

Court may make rules of practice, etc.

64. SEC. 5. That the said court may make such rules, not inconsistent with this act, for the regulation of the practice and procedure under the same as shall be deemed expedient.

**An act to enable towns and townships in this state to obtain a supply of water from existing city water works.**

P. L. 1877, p. 198.

Approved March 9, 1877.

Town council or township committee authorized to contract for supply of water, &c., with corporate authorities of cities having water works.

65. SEC. 1. That the town council or township committee of any town or township, with the consent in writing of the owners of the majority of the real estate, according to its assessed value in the year preceding the year of such consent, in said town or township shall be and hereby is authorized from time to time to contract with the corporation of any incorporated city having water works or such authority or board thereof, as may have the care and management of such water works, (which corporation and authority and board are hereby likewise authorized to enter into such contract) for a supply, for such town or township and the inhabitants thereof, and the works there carried on, of water from such water works on such terms and conditions and for such a number of years as the contracting parties may agree upon; and such corporation, authority and board are hereby authorized to make alterations and additions to its said water works and supply pumps, machinery, and lay pipes in any place that may be agreed on; and exercise in behalf of such town and townships all the powers given to such city authority or board for and on behalf of such city, so as to execute the powers hereby given to it and them, and to do like acts in behalf of said towns and townships as it or they may do for and in behalf of said city, and do any other thing necessary to give effect to and enable it or them to perform such contract on its or their part; all roads and streets in or out of said city may be used to lay pipes in; said consent need not express more than generally, to consent to the town or township entering into a contract for supplying water to the town or township.

May construct and acquire necessary works, &c.

66. SEC. 2. That said town council, or township committee shall after making such contract have power to construct and acquire the necessary works, pumps, engines, boilers and other requisite machinery, to be located in or out of the town or township which may not be provided for in, or furnished under said contract, and to lay down one main supply pipe running in such directions throughout the town or township, and as many fire hydrants as may be expedient; *provided*, the total cost necessary to be raised by the sale of the bonds hereinafter provided for, shall not for each town or township exceed ten per centum of the assessed value of the real estate in said town or township in the year preceding such consent; all streets and roads may be used by such town or township to lay pipes in, and put up fire hydrants; all work necessary to be done or materials to be furnished to execute these powers, may be done directly by the town or township or through contractors who after reasonable advertisement

Proviso.

shall be deemed to afford the best security for completing the work on the most advantageous terms.

67. SEC. 3. That after such contract with such city, corporation, authority or board, is, under the conditions aforesaid, made, said town council or township committee shall have power for and in behalf, and in the corporate name of said town or township, to issue coupon or other bonds, in such sums as the town council or township committee, respectively, shall find convenient, not exceeding in the whole the said one-tenth of the said total assessed value of the real estate in such town or township, as such value shall appear by the assessment for the year preceding the year of such consent as aforesaid; such bond shall be payable after a term of years not less than twenty, from the year in which the said contract shall be made, and shall bear interest not exceeding seven per centum per annum, payable semi-annually; the said bonds may be disposed of at a rate not less than ninety-five per centum of their par value; the proceeds of the sale of said bonds shall be used exclusively to pay for the cost of the aforesaid works, pumps, machinery and main pipe which said town or township is to construct or acquire as aforesaid, and the interest on said bonds shall be raised annually by tax, at the same time and in the same manner, and on the same property which is taxable in said town or township issuing said bonds, as the state tax is raised; and the principal of said bonds shall likewise be raised in the same manner, by the same kind of tax, raised at one time or from time to time, as such town council or township committee shall see fit, and the real and personal property in such town or township shall be liable for the payment of said bonds, principal and interest.

May make and issue bonds.

Bonds not to be sold at a rate less than ninety-five per cent. of par value.

Proceeds of sale of bonds, how applied.

Principal and interest to be paid by tax.

68. SEC. 4. That after the making of such contract, and after the construction of such works, pumps and machinery, and the laying down of such main pipe, and putting in of fire hydrants, and due and sufficient performance on all sides, of such contract, to justify such proceedings the town council or town committee, or such other public body as may hereafter be charged with the care and management of said works, shall have power to employ men, make contracts and to obtain all material necessary to put and keep such works in operation, and to keep them in repair and to lay distributing pipes, and house connections, and to lay such kind of tax as aforesaid, in manner aforesaid, to raise money to pay therefor; the said town or township may supply the water to the inhabitants, and to all buildings in such town or township, at such reasonable rate for the use of such distributing pipes and house connections and supply of water as shall seem expedient, and to collect such rates, and out of such rates to reimburse the town or township the money expended for such distributing pipes and house connections, and to make reasonable and legal by-laws regulating the use of the water and the collection of such rates as may seem expedient.

May make contracts for construction of works, lay pipes, &c.

69. SEC. 5. And whereas, the benefits to be accomplished by this act may be more cheaply and conveniently secured if two or three or more of such municipalities desiring a water supply shall enter such a contract as each by the first section is authorized to make; and whereas, such contracts on the part of such towns or townships are likely to be such as will provide for a compensation to such city, corporation, authority or board at a rate on the amount of water supplied, which will be measured or estimated, and therefore no town or township will be made liable for another's supply.

Preamble.

*Be it enacted,* That two or more town councils, or two or more township committees, or one or more township committees, and one or more town councils, may make such contract as is hereinbefore authorized to be made by one municipality for its supply with such city, or its said authority or board for a water supply and the other necessary or proper things before mentioned to accommodate all which shall so unite on the same terms and conditions, however, as to the consent of owners of property in each town or township respectively, as is before described; and each of such town council or councils and township committee or committees so uniting in such contract shall have the same power, under the same conditions as to each, to issue bonds, and to the same extent and of the same character, and

Two or more town councils or townships may unite in contracts.

Property of each town or township contracting together shall be liable for payment of principal and interest of bonds so issued.

May make separate or joint contracts.

Consents to be verified.

Repealer.

every other power which is hereinbefore given to each in the case first provided for, and under the same restrictions and limitations as it would have had if such town council or township committee had made a separate contract and had otherwise complied with the provisions contained in the previous sections of this act; and the real and personal estate in each town or township so contracting together shall be liable to the payment of the principal and interest of the bonds of that town or township which shall issue such bonds; and each town or township so uniting and issuing its bonds, shall have the aforesaid taxing power within its own limits to raise and pay the principal and interest thereof; and in relation to executing the powers to construct and acquire the necessary works, pumps, engines, boilers, and other requisite machinery, in or out of any of the constructing townships or towns, and to lay the main supply pipes and fire hydrants of such town or towns and township or townships who united in the contract in this section first mentioned, may make a separate or joint contract or contracts for the said works, pumps, engines, boilers, and other requisite machinery, and for such laying of the main supply pipes and fire hydrants, or such portions as may be deemed expedient of any of the same as may be needed by all or any of the uniting towns or townships, but under such contract or contracts, each town and township contracting shall be liable to the contractor or contractors only for such work and materials as are done and used in such town or township and for an equitable proportion of what work may be done or materials used outside of such uniting towns or townships; the said consents herein provided for shall be verified by the oath of the assessor of the said town or township that it is so signed, and said consent and affidavit shall be recorded by the town clerk and filed in the office of the town clerk, and such consent and affidavits, or a copy thereof certified by such clerk, shall be conclusive evidence of the facts therein set forth, in any court of judicature where the said facts may come in question.

70. SEC. 6. That any local, private, or special, or public act, and every part thereof which is repugnant to or inconsistent with this act or any act or part of act which can be construed to in any wise alter, affect or control or construe this act, be and the same is hereby repealed, and that this act shall take effect immediately.

## Tramps.

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|-----------------------------------------------------------------|--------------------------------------------|
| 1. Persons declared to be tramps.                               | 5. When persons may be discharged.         |
| 2. Punishment of persons offending.                             | 6. Buildings for detention may be erected. |
| 3. When persons committed may be bound out.                     | 7. Fees to officers.                       |
| 4. Proceedings to enable poor persons away from home to return. | 8. What declared to be workhouses.         |

### An act to define and suppress tramps.

P. L. 1876, p. 218.

Approved April 19, 1876.

Persons declared to be tramps.

1. That the following described persons are hereby declared to be tramps: All persons who shall come from any place without this state, or from any city, county, township, borough or place in this state, and have no legal settlement in the places in which they may be found, and live idly and without employment, and refuse to work for the usual and common wages given to other persons for like work in the place where they then are, or shall be found going about from door to door, or placing themselves in the streets, highways or roads to beg or gather alms, and can give no reasonable account of themselves or their business in such places.

Punishment of persons offending.

2. That if any person shall be found offending in any county, city, township, borough or district in this state against this act, it shall and may be lawful for any constable or police officer of such place, and he is hereby enjoined and required, on notice thereof given him by any of the