

## Boroughs.

- I. BOROUGH ACT OF APRIL 5TH, 1878, WITH SUPPLEMENTS.
1. Extent of area and population which may be embraced in a borough.
  2. Chosen freeholder to call election to constitute a borough.
  3. Appointment of inspectors and clerk of election.
  4. Amended by section 23.
  5. Judges and inspectors to take oath. Mode of election.
  6. Notice of first election, by whom given.
  7. Mayor and council to take oath. Appointment of borough clerk.
  8. Jurisdiction of mayor in criminal matters.
  9. Quorum of council.
  10. Marshals of borough, how appointed.
  11. Fees of mayor and marshals.
  12. General powers of council.
  13. Amended by sections 27 and 65.
  14. Ordinances to be recorded.
  15. To what officers salary is allowed and to whom not.
  16. Vacancies in office of mayor or council, how filled.
  17. Penalty for illegal voting.
  18. Act not to conflict with powers of township committee.
  19. Status of boroughs created by special statute.
  20. Expenses of elections, how paid.
  21. Whether borough incorporation shall be continued or not, how decided.
  22. Repealed by section 26.
  23. Election for mayor and council to be held annually.
  24. Amended by section 124.
  25. Repealer.
  26. Repealer.
  27. Amount of money raised for borough purposes to be designated by vote.
  28. Previous to annual election, statement of amounts received, disbursed and required to be raised by tax to be prepared.
  29. Repealer.
  30. Mayor and council to have control of streets.
  31. Road taxes collected to be used within borough limits.
  32. Amended by section 35.
  33. Proceedings where owner fails to grade or construct sidewalk.
  34. Repealer.
  35. Proceedings for constructing sidewalks.
  36. Expense assessed on lots.
  37. Amount raised for road purposes, how fixed.
  38. Proceedings for approval or on veto of ordinances, &c.
  39. Land sold for taxes may be purchased by borough.
  40. Time of opening and closing polls.
  41. Provision for curbing streets and assessing cost on lands benefited.
  42. Borough clerk may administer oaths.
  43. Warrant by mayor, how served.
  44. Taxes, how assessed.
  45. Election of first officers.
  46. Repealer.
  47. To whom petition for constitution of borough shall be presented.
  48. Second petition cannot be considered while first is pending.
  49. Qualifications of voters.
  50. Repealer.
  51. Designation of justice of the peace to try complaints for violation of ordinances.
  52. Grades and boundaries of streets, how established.
  53. Contracts for macadamizing streets authorized.
  54. What municipal governments may become boroughs, and how.
  55. Such borough to be a body corporate.
  56. When the act shall take effect.
  57. Special election, by whom called and when held.
  58. Election, how conducted and certified. Corporate name and powers of borough.
  59. Election and term of borough officers.
  60. Election, by whom conducted and how certified.
  61. County clerk to give notice of first election.
  62. Borough clerk, how appointed. Term of mayor and council.
  63. Powers and jurisdiction of mayor.
  64. Quorum of council.
  65. Amount to be raised for borough purposes to be designated on ballots of voters.
  66. Effect of adopting the act.
  67. Powers and duties of collector.
  68. Powers and duties of assessor.
  69. Borough officers to take oath.
  70. Vacancies in office, how filled.
  71. Apportionment of property and moneys between municipalities on formation of new borough.
  72. Repealer.
  73. Borough may appoint corporation counsel and street commissioner.
  74. Moneys raised for borough purposes, how designated.
  75. Statement of receipts and expenditures to be published annually.
  76. Laying of culverts and drains authorized.
  77. Arrests without warrants may be made by whom.
  78. Repealer.
  79. Amended by section 103.
  80. Notice of intention to grade street, &c., to be given.
  81. Further proceedings may be by resolution.
  82. Costs assessed upon lands benefited.
  83. Commissioners, how appointed.
  84. Commissioners to take oath.
  85. Proceedings on report of commissioners.
  86. Report to be recorded by borough clerk, &c.
  87. Sale of lands for payment of assessments, how made.
  88. Certificates of indebtedness may be issued.
  89. Assessor's map of borough to be made.
  90. When township property becomes vested in borough.
  91. Repealer.
  92. Compensation of borough collector.
  93. Election of assessor, collector and commissioners of appeal.
  94. Collector to give bond.
  95. Vacancies in office, how filled.
  96. Election of judge and inspectors of election.
  97. How judges and inspectors shall be elected.
  98. Board of election, how constituted.
  99. When borough to be divided into election districts.
  100. Board of election to appoint member to attend meeting of county canvassers.
  101. Repealer.
  102. Repealed by section 137.
  103. Improvement of streets by ordinance authorized.
  104. Election of assessor and collector.
  105. Term of office of assessor and collector.
  106. Powers and duties of assessor.
  107. Powers and duties of collector.
  108. Compensation of assessor and collector.
  109. Vacancies, how filled.
  110. Collector to give bond.
  111. Assessor and collector to take oath.
  112. How lands shall be assessed.
  113. Collector to keep list of taxpayers.
  114. Borough bonds may be issued for certain improvements.
  115. Special election to be called.
  116. When bonds may be issued.
  117. Borough to pay its proper proportion of state and county taxes.
  118. Taxes, when payable and how collected.
  119. When discount allowed taxpayer.
  120. Repealer.
  121. When governing body may adopt corporate name for borough.
  122. Certificate, in such case, to be made and filed.
  123. Election of March 13th, 1885, validated.
  124. Money for current expenses authorized to be raised by tax annually.
  125. List of delinquent taxpayers to be delivered to justice of the peace.

126. Justice to give receipt and issue warrant.
127. Repealer.
128. Construction of plants, &c., for lighting streets by electricity, &c.
129. Borough may supply whom with light.
130. Repealer.
131. Borough formed out of a police district to become vested with property of police district.
132. Repealer.
133. Legal voters determine by ballot the amount of money raised for borough purposes.
134. Extension of borough limits authorized.
135. Boundaries to be set forth in ordinance.
136. Ordinance to be filed in county clerk's office and office of secretary of state.
137. Repealer.
138. Proceedings where borough contains area greater than that allowed by the act.
139. Who, in such case, not liable to borough tax.
140. Repealer.
141. Power to lay out streets and roads vested in whom.
142. Assessors in boroughs of first class elected in same manner as collectors in such boroughs.
143. Repealer.
144. Legal voters of boroughs within townships to vote in all elections in such boroughs.
145. Voters in boroughs entitled to vote for chosen freeholder.
146. County boards of registration to appoint boards of registry and election for boroughs.
147. Repealer.
148. Sinking fund, how created.
149. Appointment of commissioners of such fund.
150. Duties of such commissioners.
151. Money for sinking fund to be raised by taxation.
152. System of sewerage may be established.
153. Proceedings for construction of sewer.
154. Appointment and oath of commissioners to assess benefits.
155. Power to examine witnesses, &c.
156. Report of assessments to be made.
157. Proceedings on objections to report.
158. Limit of time for allowing *certiorari*.
159. Assessments to be a first lien on land.
160. Temporary improvement certificates may be issued.
161. What part of cost shall be put in annual borough tax levy.
162. Election may be had to determine whether bonds shall be issued.
163. When bonds may be issued.
164. How lands may be released from lien of assessment.
165. Proceedings when majority vote against the issue of bonds.
166. Compensation of commissioners of assessment and their clerk.
167. Special election may be held upon acceptance or rejection of the act.
168. Authority of boroughs accepting this act.
169. Repealer.
170. Construction of sewers and drains authorized.
171. Proceedings when petition for construction of sewer is presented to mayor and council.
172. Appointment of commissioners.
173. Oath to be taken by commissioners.
174. Hearing to be given and assessment made.
175. Report of assessments to be made.
176. Proceedings on filing of report.
177. When *certiorari* shall not be allowed.
178. Assessments divided into ten installments and to be a lien on lands.
179. Improvement certificates may be issued.
180. Provisions of act applicable to sewers authorized to be constructed before passage of act.
181. Amount required to be raised by taxation.
182. Cost of construction and of maintenance may be raised by taxation.
183. Assessments collected, how applied.
184. Compensation of commissioners.
185. Limit of total borough indebtedness.
186. Boroughs of first class to be independent of township government.
187. Voters within borough not to vote for township officers.
188. What borough officers shall be elected.
189. Term of mayor.
190. Voters may designate on ballots amounts for borough purposes.
191. Boroughs of first class may elect one chosen freeholder.
192. Officers heretofore elected to serve out their terms.
193. Repealer.
194. The act applicable to the formation of boroughs lying in more than one township.
195. This section repealed by section 209.
196. Repealer.
197. Improvement certificates for payment of cost of constructing or repairing sidewalks authorized.
198. When such certificates shall be paid.
199. Authority of mayor and council to grade streets.
200. Authority to make contract for lighting streets.
201. Newly-inaugurated mayor to preside at annual meeting of council.
202. Council to elect a president.
203. When president shall be acting mayor.
204. Vacancies in office, how filled.
205. Ordinances to be submitted for approval or veto.
206. Assessments for improving streets or sidewalks may be paid in installments.
207. Officers nominated by mayor.
208. Repealer.
209. Repealer.
210. Right of borough electors to vote for chosen freeholder.
211. Proceedings in case of dispute as to where majority of borough electors reside.
212. Votes in borough to be added to votes in township.
213. Borough governments wholly separated from the government of the township out of which they were formed.
214. What officers shall be elected in boroughs.
215. Term of mayor.
216. Appropriations to be voted for at annual election.
217. What boroughs entitled to elect a chosen freeholder.
218. Township officers to serve until when.
219. Repealer.
220. Collector to render account to mayor and council when required, &c.
221. Penalty for non-compliance.
222. Repealer.
223. Police department may be established.
224. Police stations and signals may be erected.
225. Borough may sell surplus crushed stone.
226. Village government may be incorporated under borough act.
227. Salary of assessor and collector, how fixed.
228. Repealer.
229. Existing borough officers to serve until when.
230. Amendment of title of act of 1883.
231. When additional territory may be annexed to a borough.
232. Special election called, how and when.
233. Election officers to be appointed.
234. What number of ballot-boxes to be used.
235. How election to be conducted.
236. Form of ballots, &c.
237. Expenses of election, how paid.
238. Repealer.
239. Powers and authority of borough marshal.
240. Marshal to give bond. Form of bond.
241. Copy of bond, how obtained.
242. Proceedings for prosecution of bond.
243. Assessment of damages by jury.
244. Name of person for whose use bond is prosecuted to be indorsed on process, &c.
245. When the prosecutor shall give bond.
246. Proceedings when marshal absconds or becomes insolvent.
247. Remedy of marshal's sureties when he absconds or becomes insolvent.
248. Power of executors or administrators of marshal who has died before settling up executions put into his hands.
249. Moneys recovered by sureties, &c., of marshal, how disposed of.
250. Repealer.
251. Proceedings to sell in fee lands subjected to a lien for taxes.
252. Court may order such sale.
253. Certificate of sale with covenant to be delivered to purchaser.
254. When deed shall be delivered to purchaser.
255. Borough may purchase.
256. Proof of publication and service of notice required by act shall be filed.
257. What recitals in deed are sufficient.
258. Court may alter or amend description of lands sold.

- 259. Conditions for allowance of *certiorari*.
- 260. All moneys received on such sales to be deposited with collector, the surplus being held for person legally entitled thereto.
- 261. Repealer.
- 262. Proceedings for formation of boroughs not invalidated by reason of certain informalities.
- 263. Repealer.
- 264. When township committee may consolidate election districts.
- 265. When township and borough authorities shall divide public property and public debts.
- 266. Repealer.

II. BOROUGH ACT OF MARCH 12TH, 1890, WITH SUPPLEMENTS.

- 267. What area and population may be embraced in a borough.
- 268. Special election to constitute a borough.
- 269. Election, how conducted and certified. Corporate name of borough.
- 270. First election after incorporation of borough.
- 271. Officers elected at such election. Terms of office.
- 272. Annual borough election, when held.
- 273. What officers may be appointed by council.
- 274. Result of first election and certificate of borough boundaries to be filed.
- 275. Oath of officers elected or appointed.
- 276. What officers shall give bonds.
- 277. Meetings and power of council.
- 278. Vacancies in office, how filled.
- 279. Powers and duties of officers.
- 280. Duties of borough collector.
- 281. For what purposes council may pass ordinances.
- 282. Ordinances presented to mayor for approval or veto.
- 283. Enacting clause of ordinances prescribed.
- 284. Money for current expenses up to ten mills on the dollar to be raised by tax.
- 285. How additional moneys may be raised.
- 286. Proceedings for laying out streets, &c.
- 287. Compensation of borough officers.
- 288. Penalties for violating ordinances. Proceedings to enforce such penalties.
- 289. Taxes, by whom assessed and collected.
- 290. Meeting of commissioners of appeal.
- 291. Duties and powers of the mayor.
- 292. Unlawful to sell liquors without license.
- 293. When moneys may be borrowed for street or sidewalk improvements.
- 294. Interest on bonded debt to be raised by tax.
- 295. Removal of brush, &c., from lots may be required.
- 296. Proceedings for grading and graveling of streets.
- 297. Assessments for such improvements on lands benefited.
- 298. Building lines may be established by ordinance.
- 299. What municipal governments may accept provisions of this act.
- 300. Upon acceptance of this act, former municipality becomes dissolved.
- 301. Corporate boundaries, how extended.
- 302. Copies of ordinance extending boundaries to be filed with secretary of state and county clerk.
- 303. Amended by section 309.
- 304. When new election will be held.
- 305. Election, how conducted.
- 306. Votes, how canvassed.
- 307. Repealer of act of March 12th, 1890.
- 308. What boroughs not affected by repeal.
- 309. Additional officers to be appointed by council.
- 310. Repealer.
- 311. Bonds heretofore issued legalized.
- 312. Period within which lands sold for taxes may be redeemed.
- 313. How borough boundaries may be changed.
- 314. Special election on such matter to be called, when and how.
- 315. Appointment of election officers.
- 316. Election, how conducted.
- 317. Form of ballots and certification of result of election.
- 318. Repealer.
- 319. Repealer.
- 320. What ordinances and resolutions not affected by repealer in sections 307 and 308.

III. BOROUGH ACT OF APRIL 2D, 1891, WITH SUPPLEMENTS.

- 321. What territory may be incorporated into a borough.
- 322. Amended by section 385.
- 323. Proof of publication of notice of intention.
- 324. Amended by section 386.
- 325. Appointment of election officers. Conduct of election. Corporate name.
- 326. First election after incorporation, when and how held.
- 327. Officers chosen at such election.
- 328. Annual borough election, when held.
- 329. Amended by section 405.
- 330. Result of election and certificate of change of borough boundaries to be filed.
- 331. Officers to take official oath.
- 332. What officers shall give bond.
- 333. Annual and other meetings and powers of mayor and council.
- 334. Vacancies in office, how filled.
- 335. Duties of borough officers.
- 336. Duties of borough collector.
- 337. Purposes for which council may pass ordinances.
- 338. Ordinances submitted to mayor for approval or veto.
- 339. Enacting clause to ordinances.
- 340. Money for borough expenses, how raised.
- 341. Amended by section 357.
- 342. Proceedings for street improvements, &c.
- 343. Compensation of borough officers.
- 344. Council may enforce fines and penalties for violation of ordinances.
- 345. Taxes, how assessed and collected.
- 346. Meeting of commissioners of appeal.
- 347. Duties and powers of mayor.
- 348. Council to provide by ordinance for grading streets, &c. Bonds may be issued therefor.
- 349. Bonds to be paid by tax. Act to be voted on.
- 350. Council may require brush, &c., to be removed from lots.
- 351. Grading and graveling streets, how provided for.
- 352. Assessment for benefits from such improvement, how made.
- 353. Building lines to be established by ordinance.
- 354. What municipalities may accept provisions of act.
- 355. Upon acceptance of act, former municipality dissolved.
- 356. Amended by section 381.
- 357. Consent of property-holders necessary to increase borough tax over twenty mills to the dollar.
- 358. Repealer.
- 359. Powers and duties of borough assessors.
- 360. Powers and duties of borough collectors.
- 361. Taxes, how assessed and collected and to whom paid.
- 362. School taxes, how assessed, collected and paid out.
- 363. When taxes shall become due.
- 364. Repealer.
- 365. When improvement bonds may be issued.
- 366. Limit of amount of such bonds.
- 367. Bonds not to be sold at less than par.
- 368. Repealer.
- 369. Proceedings for construction of sewer or drain.
- 370. Land may be purchased or condemned for such sewer or drain.
- 371. Proceedings for awarding contract for constructing sewer or drain.
- 372. When council may borrow money for such improvement.
- 373. Commissioners to assess benefits to be appointed. Their proceedings.
- 374. Limit of time for allowing *certiorari*.
- 375. Advance payments by property-owners to be credited by borough treasurer.
- 376. How collection of assessments shall be enforced.
- 377. The portion of sewer costs imposed on borough at large, how raised.
- 378. Amended by section 409.
- 379. Licenses for sundry purposes may be authorized by ordinance.
- 380. Repealer.
- 381. District adjacent to borough may become a part thereof.
- 382. Music for public parks may be provided.
- 383. Tax for such purpose may be imposed.
- 384. Tax, how assessed and collected.

385. Special election, how called to determine question as to organization of a borough.
386. How and by whom objections may be made.
387. Council, how constituted. Term of office.
388. Council may designate justice of the peace to try complaints.
389. Boroughs shall vote within their limits.
390. Legal voters of boroughs may vote for chosen freeholders.
391. Election and term of overseer of poor.
392. Repealer.
393. Provisions of supplement of March 7th, 1893, extended.
394. Mayor and council may appoint commissioners of assessment.
395. Boundaries may be changed only on petition. Proceedings when petition is filed.
396. Voting, how conducted at special election held after filing such petition.
397. Repealer.
398. Boroughs of first class to be independent from township in all matters.
399. Voters within boroughs not to vote on township matters.
400. Money not to be raised in boroughs for township expenses.
401. Officers' terms expire, when.
402. What borough officers to be elected in first-class boroughs.
403. Such boroughs entitled to elect one chosen freeholder.
404. Repealer.
405. Council may appoint certain additional officers.
406. Any incorporated village may accept provisions of this act.
407. Special election to determine question of acceptance to be held.
408. Repealer.
409. Proceedings for construction of sewer heretofore had validated.
410. Certain borough boundaries declared to be lawful.
411. Legally-incorporated borough governments liable for debts of former *de facto* governments.
- IV. BOROUGHES IN SEASIDE RESORTS.
412. Amended by section 445.
413. Election upon question of forming borough, how called and conducted.
414. How notice of election given.
415. Time of opening and closing polls.
416. Officers that shall be chosen.
417. Certificate of election and borough boundaries to be filed.
418. Official oath to be taken.
419. What officers to give bond.
420. Constitution and powers of council.
421. Vacancies in office, how filled.
422. Powers and duties of borough clerk, treasurer, &c.
423. Duty of borough collector.
424. Purposes for which ordinances may be passed.
425. Ordinances submitted to mayor for approval or veto.
426. Enacting clause of ordinances.
427. Superseded by section 444.
428. Superseded by sections 445 and 446.
429. Proceedings for laying out streets, &c.
430. Compensation of borough officers.
431. Fines and penalties for violating ordinances, how fixed and enforced.
432. Amended by section 447.
433. Powers and duties of commissioners of appeal.
434. Amended by section 442.
435. Amended by section 447.
436. Unlawful to sell liquors without license.
437. Bonds may be issued for laying streets, &c.
438. Streets may be graded and improved, how.
439. Interest and principal of bonds, how paid.
440. Repealer.
441. Lots in boroughs, how cleared of brush, &c.
442. Duties and powers of mayor, marshal and policemen.
443. Repealer.
444. Limit of annual tax for current expenses.
445. Proceedings for additional tax.
446. Repealer.
447. Restriction of operation of act.
448. When any district may become incorporated as a borough.
449. Council may provide by ordinance for grading and graveling streets.
450. Cost to be assessed on properties benefited.
451. Proceedings to enforce collection of assessments heretofore made.

452. Building lines, how established.
453. Water works may be constructed.
454. Bonds may be issued therefor.
455. Proceedings for appointing water commissioners.
456. By whom commissioners shall be appointed.
457. Powers and duties of commissioners.
458. Commissioners to prepare report on completion of work.
459. Quarterly reports to be made after completion of work.
460. Vacancies in office of commissioners, how filled.
461. Commissioners to give bonds.
462. Compensation of commissioners.
463. Books of records, &c., to be received in evidence.
464. How borough may extend corporate boundaries.
465. Copy of ordinance fixing boundaries to be filed.
466. Certain boroughs heretofore incorporated declared legal.
467. How taxes to be assessed and collected.
468. Repealer.
469. Incorporation not invalidated by failure to file certificate with secretary of state.
470. Ordinances may be passed to lay out streets, walks, &c.
471. Commissioners to be appointed by circuit court to assess benefits.
472. Powers and duties of commissioners.
473. Remedy of owners to whom award has been made. Assessments to be first lien.
474. Disposition of awards made to non-residents, lunatics, &c.
475. Assessments for costs, how made.
476. Council may issue improvement bonds and temporary improvement certificates.
477. Compensation of commissioners.
478. Committee on streets, walks and drives to be appointed. Their duties, &c.
479. Assessments for benefits to bear interest. Proceedings to sell lands.
480. Use of streets, walks or drives may be regulated by ordinance.
481. Act to take effect immediately.
- V. MISCELLANEOUS BOROUGH ACTS.
482. Boroughs divided into three classes for municipal legislation.
483. Classes distinguished by population.
484. What shall be a sufficient classification in future legislation.
485. Regulation of grades of wagon-ways, &c.
486. Additional moneys necessary, how assessed and collected.
487. Poll tax to be assessed.
488. Poll tax used for lighting streets.
489. Repealer.
490. One freeholder elected annually.
491. Freeholder so elected to be a member of board of chosen freeholders.
492. Legal voters to elect one chosen freeholder.
493. May borrow in anticipation of revenue.
494. Number and term of members of council in second-class boroughs.
495. Term of mayor in such boroughs.
496. Vacancies in council, how filled.
497. Repealer.
498. Boroughs may repair sidewalks.
499. Ordinances may be passed thereon.
500. Collections on account of such repairs, how disposed of.
501. Boroughs may purchase sewer works.
502. Proceedings to authorize such purchase.
503. Bonds may be issued in case of purchase.
504. How payment of bonds shall be made.
505. Assessments for such purpose, how made.
506. Sewer system may be extended.
507. Assessments for such extension.
508. Special sewer tax authorized.
509. For what general purposes ordinances may be passed.
510. Proceedings in case of violation of ordinances.
511. Repealer.
512. Boroughs may issue improvement bonds.
513. Proceeds of such bonds, how appropriated.
514. People to vote upon their issue.
515. Special election to be called.
516. How question shall be submitted at such election.
517. Bonds to be paid by tax.
518. Payments out of proceeds of bonds for certain improvements authorized.
519. Repealer.

- 520. Incorporated boroughs may construct and maintain sewers.
- 521. Former contracts and proceedings validated.
- 522. Borough may acquire private lands for outlets, &c.
- 523. Appraisers to be appointed where agreement for such lands cannot be effected.
- 524. Award of appraisers may be set aside by circuit court and trial by jury had.
- 525. Promissory notes and improvement certificates may be issued.
- 526. Bonds may also be issued.
- 527. Limit of amount of notes or bonds that may be issued.
- 528. Amended by section 532.
- 529. Violation of ordinances for licenses, how prosecuted. Appeal may be had.
- 530. When *certiorari* shall not be allowed.
- 531. Any borough may operate under this act.
- 532. Ordinances may be passed concerning licenses on various subjects.
- 533. Cost of repairing sidewalks, how collected.
- 534. In default of payment of penalty for violation of any ordinance defendant may be committed to jail.
- 535. Ordinances respecting sidewalks authorized.
- 536. Elections for formation of borough governments to be ordered only when petition is signed by owners of one-half of real estate.
- 537. Legal voters may adopt a new form of borough government.
- 538. Proceedings to change form of government.
- 539. Election on the subject to be held and noticed by governing body.
- 540. How election shall be conducted and certified.
- 541. Proceedings after the election.
- 542. How mayor and council shall be elected.
- 543. Expenses to be paid by borough.
- 544. Officers of old corporation to hold until new officers are qualified.
- 545. When act shall take effect.
- 546. Cost of constructing and repairing sidewalks, how paid.
- 547. Election may be held on question of issuing bonds for such cost.
- 548. Further proceedings when the issue of such bonds has been authorized at the election.
- 549. Costs, how collected from owners of lands.
- 550. Election may be held to determine whether borough incorporation shall be continued.
- 551. Proceedings upon petition for election.
- 552. When polls shall be opened and closed.
- 553. Notice of election to be advertised and posted.
- 554. Majority vote necessary to a determination.
- 555. Bonded debt to remain a lien on property within the borough.
- 556. Unpaid taxes, &c., to be paid to proper township officer.
- 557. Right of action against borough preserved.
- 558. Township committee may sell public property of borough.
- 559. Township to pay borough debts and assess the same against property within borough limits.
- 560. Proceedings where assessments for improvements have been set aside.
- 561. Repealer.

**I. Borough act of April 5th, 1878, with supplements.**

**An act for the formation of borough governments.(a)**

Approved April 5, 1878.

P. L. 1878, p. 403.

**1.** That the inhabitants of any township or part of a township in this state, embracing an area not to exceed four square miles, and containing a population not exceeding five thousand, may become a body politic and corporate, in fact and in law, whenever at a special election, to be called for that purpose, as hereinafter provided, it may be so decided by a majority of votes of the electors of said proposed borough who are qualified to vote at elections for state and township officers.

Extent of area and population which may be embraced in borough.

**2.** That it shall be the duty of the chosen freeholder, or, if more than one, then of one of the chosen freeholders of any township in which it is proposed to constitute a borough under this act, upon presentation to him of a petition for that purpose, setting forth the name and boundaries of the proposed borough, signed by persons owning at least one-tenth in value of the taxable real estate in the limits of the proposed borough, as the same appears upon the assessor's duplicate of the township, to call a special election to be held at some convenient place within the said proposed borough, by notice in writing under his hand, which notice shall contain an accurate description of the name and boundaries of the proposed borough, and state the object of the said election to be to vote for or against the incorporation of the said proposed borough under the provisions of this act; which notice shall be set up at least ten days previous to said proposed election, in five of the most public places within the said proposed borough limits, and published at least twice in a newspaper printed and published within the said proposed borough limits, if any, or, if none so published, then in a newspaper printed and published in the county wherein said proposed borough is situated.(b)

Chosen freeholder to call a special election on petition, to constitute a borough.

Notice of election to be given.

**3.** That the said freeholder shall appoint by writing under his hand, a clerk and two inspectors of said election, who shall be freeholders and legal voters in the said proposed borough, and who shall hold and conduct the election aforesaid at the time and place specified in the said notice; the polls shall open and close at the same hours as at general elections in this state, and the election shall be conducted as nearly as may be in like

Appointment of clerk and inspectors of election.

(a) See *Long Branch v. Sloane*, 20 Vr. 356. *State v. Borough of Clayton*, 24 Vr. 277. This act is not superseded or repealed, by implication, by act approved April 20th, 1891, being sections 321 to 356, *post*. *Greene v. Clarke*, 27 Vr. 63.

(b) By the supplement of March 24th, 1885 (Sec. 47, *post*), the petition is to be presented to a judge of the court of common pleas.

179-1  
RWS97-330  
Rev97-235  
84V-61  
623  
32V-151  
30V-203  
421  
29V-492  
606  
38V-647  
595

179-1, 2  
38V-121  
604

Ballots.	manner as general elections are conducted; the ballots cast shall contain the words "for incorporation" or "against incorporation," as the case may be; at the close of the polls the said clerk and inspectors shall canvass the votes cast, and if a majority of said votes shall be for incorporation, they shall forthwith certify the result of said election, and the number of votes cast for and against, under their hands, to the clerk of the county wherein said borough is situated, to be filed in his office; and from the time of filing said certificate in the office of the clerk of the county as aforesaid, the inhabitants of said borough shall be a body corporate, in fact and in law, under the name of "the mayor and council of the borough of _____," and by said name shall have perpetual succession, sue and be sued, prosecute and defend in all courts of law and equity in this state, have a common seal and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of said borough. (a)
Result of election to be certified.	
Corporate name.	
Judges and inspectors to take oath.	4. [Amended by Sec. 23, <i>post.</i> ] 5. That the judges and inspectors so chosen, having first taken and subscribed an oath or affirmation honestly and impartially to hold and conduct said election, shall forthwith open the polls for the election of the officers aforesaid; the said election shall be by ballot, and shall be conducted in the same manner as nearly as may be as elections for members of the legislature are conducted; the persons voting at said election shall be those who are qualified to vote at elections for members of the legislature in the townships wherein said borough is situated; the polls shall remain open until seven o'clock in the evening, and at the closing of the polls the judge and inspectors holding said elections shall canvass the votes cast and certify the result, with the number of votes cast for each candidate, to the clerk of the county wherein said borough is situated, and shall also deliver a copy of said certificate, under their hands, to the clerk of the borough.
Election to be by ballot.	
Time of opening and closing polls.	
Clerk of township to give notice of the first election.	6. That the clerk of the township wherein the said borough is situated shall give notice ten days previous to the first election under this act of the time and place of holding the same, by advertisements signed by himself and set up in five public places in said borough, and also published at least once in a newspaper printed and published in said borough, or in the county wherein said borough is situated; and of all subsequent elections the borough clerk shall give the like notice; <i>provided</i> , that after the first election the council may by ordinance fix a place for holding said elections.
Proviso.	
Mayor and council to take and subscribe an oath.	7. That after the first election, the mayor and council then elected shall assemble in some convenient place, and, having first taken and subscribed an oath or affirmation before some person authorized to administer an oath, well and faithfully to perform the duties of their respective offices, which oath or affirmation shall be filed with the borough clerk, shall proceed to appoint some suitable person, resident in the borough, to be borough clerk, who shall hold his office at the pleasure of the council, and shall attend all meetings of the council, keep a correct record of all their proceedings, and perform such other duties as the council may require of him or as may be directed by this act, and upon the appointment of his successor shall deliver to him all books, papers and property of the said borough in his possession; the mayor and council shall hold their respective offices until their successors are qualified; and every person elected as mayor or councilman shall take an oath or affirmation, as hereinbefore provided, before he enters upon the duties of his office.
Appointment of borough clerk.	
Mayor and council to hold office until successors are qualified.	8. That the mayor of said borough shall have by virtue of his office the same jurisdiction in criminal matters as is now possessed by justices of the peace, together with such other powers as may by this act be specially conferred upon him, and shall have power to arrest without process, or to issue his warrant for the arrest of any person guilty, or whom he may have reason to believe guilty, of any breach of the peace or violation of any
Mayor to have like jurisdiction in criminal matters as justices of the peace.	

ordinance of the said the mayor and council of the borough of ———, and to try and determine all causes and complaints aforesaid, and is hereby authorized and empowered to commit any person so offending to the lock-up of the said borough for any time in his discretion, not exceeding ten days, or to impose a fine not exceeding twenty dollars, or both; he shall keep a record in a book to be provided for that purpose, of all proceedings and convictions before him under this act, and shall hold all fines and penalties subject to the order of the council; all writs or warrants by him issued may be directed to one of the marshals of the borough or to any constable of the county, who shall duly execute the same.

9. That the mayor and council shall meet at such time and place as they may by their by-laws direct, and three members of the council and the mayor shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time; all meetings shall be presided over by the mayor, but he shall not vote except to give the casting vote in case of a tie; in the absence of the mayor, four members of the council shall constitute a quorum, one of whom may be appointed to preside.

Quorum of council.

Presiding officer.

10. That the said mayor and council shall have power to appoint and remove at pleasure one or more special officers to be known as marshals of the borough, who shall have the same power and authority in criminal matters in the said borough as is or may be vested in constables in the township where said borough is situated, and shall have power to arrest and bring before the mayor of said borough any person guilty of the offenses specified in section eight of this act, to be dealt with according to the provisions of this act, and the said marshals before entering upon the duties of their office shall take an oath or affirmation well and faithfully to perform and discharge the duties thereof.

Mayor to appoint marshals of the borough.

11. That the said mayor and marshals in all criminal proceedings and in all arrests, proceedings and convictions under this act shall have and receive the same fees as are by law allowed to justices of the peace and constables for the like services, and in cases of offenses punishable by the mayor under this act the sentence may be that the offender also pay the costs in addition to fine or imprisonment, and the mayor may issue his warrant to levy and make the fine or costs, or both, as the case may be, of the goods and chattels of the offender, and in other cases said costs shall be recovered in like manner as in criminal cases before justices of the peace.

Fees of mayor and marshals.

12. That the mayor and council of said borough shall have power (a)

General powers of council.

I. To make such by-laws and rules for their government as are not inconsistent with the spirit and intention of this act, the constitution and laws of this state or of the United States;

To make by-laws, &c.

II. By their title "the mayor and council of the borough of ———," to pass, enforce, alter or repeal ordinances to take effect within the limits of said borough for the following purposes, to wit:

To make and repeal ordinances.

1. To declare what shall be considered nuisances in the streets, roads, lots and places in said borough, and to prevent and remove all obstructions, incumbrances and nuisances in and upon any street, road, lot, sidewalk, inclosure or other place in said borough; (b)

To declare nuisances.

2. To prevent horses, cattle, sheep, swine, dogs, goats and other animals from running at large in said borough, and to provide for the impounding and sale of the same;

To prevent animals running at large.

3. To prevent immoderate or fast driving on the streets or roads, and to prevent cruelty to animals;

To prevent fast driving.

4. To prevent riots, disturbances and disorderly assemblages in the streets or in any house or place in said borough, to prevent and suppress all gaming-houses and houses of ill fame, and to prohibit gaming for money or other valuable thing, to restrain or punish indecent or disorderly con-

To prevent riots and suppress gaming.

(a) The common council of a borough has not power to pass an ordinance making a private trespass penal. *Breggaglia v. Vineland*, 24 Vr. 168.

(b) The power to prevent and remove obstructions from

public highways can only be exercised by an ordinance of the borough council. *Avis v. Vineland*, 26 Vr. 285. See *Avis v. Vineland*, 27 Vr. 474.

duct or drunkenness and restrain and punish all street beggars, mendicants, tramps and common prostitutes, and to suppress vice and immorality;

To provide for protection of property from fire.

5. To provide means for extinguishing fires in said borough, and for the protection of property in said borough from destruction by fire;

Licenses.

6. To provide for the licensing or prohibiting of hawkers, peddlers and petty chapmen, and of restaurants, oyster cellars, bowling alleys or billiard saloons;

Lighting streets.

7. To provide for lighting the streets of said borough and to furnish lamps for the same;

To provide for a lock-up.

8. To provide for the erection, purchase or renting of a suitable building or place to be used as a lock-up for said borough, and for the safe and proper keeping and care of the persons confined therein;

To provide for good order, &c.

9. To provide generally for the peace, quiet and good order of said borough, and the welfare and protection of persons and property therein; (a)

To appropriate money, &c.

III. To appropriate from time to time from the moneys raised for borough purposes as hereinafter provided, or received from any other source, such sums as may be necessary for the proper carrying into effect of the provisions of this act.

Ordinances passed to be recorded in full.

13. [Amended and supplied by Secs. 27 and 65, *post.*]

14. That all ordinances passed by the said mayor and council shall be submitted in writing at a regular meeting, and acted upon at a subsequent meeting, and, when adopted, shall be recorded in full by the borough clerk in a proper book to be kept for that purpose, and advertised by copies set up in at least ten public places in said borough, at least one week before the time appointed for the same to go into effect, or published in a newspaper printed and published in said borough, at least one full week previous to said time, and every such ordinance shall clearly specify the time when the same shall go into effect.

Compensation not allowed mayor and council.

15. That the mayor and council shall receive no compensation for their services under this act; the borough clerk and marshals shall be paid such salary as the mayor and council may fix upon, saving to the said mayor and marshals the fees allowed by law in criminal cases as aforesaid.

Salary of clerk and marshals.  
Vacancies in office of mayor or council, how filled.

16. That if any vacancy shall occur in the office of mayor or in the council, said vacancy may be filled by the council until the next annual election, when, if the vacancy be in the council, the election for that vacancy shall be for the unexpired term only of the person who left said vacancy.

Penalty for illegal voting.

17. That if any person shall unlawfully vote, or attempt to vote, at any election under this act, or shall advise, aid and solicit or procure any other person or persons so to do, or shall unlawfully interfere with or influence, or attempt to influence, the result of any such election, he shall be deemed guilty of a misdemeanor, and subjected to the same punishment provided by law for the like offenses at any election for members of the legislature of this state.

Act not to conflict with powers, &c., of township committee.

18. That nothing in this act contained shall be held to interfere or conflict with the powers and duties of any of the township committee or officers of the township wherein any such borough may be created as aforesaid, except as herein specially mentioned; nor shall this act be held or taken to authorize the laying out, opening or altering of any street or road in the limits of any borough, or the changing of the grade of any such street or road.

What boroughs created by the legislature by special statute to be held boroughs for the purposes of this act.

19. That if the legislature shall, by any special statute, name, lay out and designate the boundaries of any borough not exceeding in area and population the limits specified in section one of this act, said borough so designated by the legislature shall be held and taken to be a borough for the purposes of this act in the same manner as if the question of incorporation had been voted upon at a special election called for that purpose, as provided in section two of this act, and a certificate of said election filed

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85V-212  
31V-366

(a) See *Landis v. Vineland*, 25 Vr. 75.

with the clerk of the county as aforesaid; and the inhabitants of said borough so erected by the legislature may forthwith at the time and in the manner mentioned in this act, proceed to elect a mayor and council, and assume and enjoy all the privileges granted by this act; and any borough laid out or designated as aforesaid by the legislature since the twentieth day of March, eighteen hundred and seventy-eight, not exceeding in area and population designated by this act, shall be held and taken to be a borough under this act.

**20.** That the expenses of advertising and holding the first election mentioned in section two of this act shall be defrayed and borne by the petitioners for said incorporation; the freeholder calling said election shall for his services be entitled to the sum of two dollars, and the judge and inspectors holding said election shall be entitled to receive the same fees as are allowed for like duties at state elections; the expenses of calling and holding the annual elections for officers of said borough shall be defrayed by the borough; and the township clerk for calling and advertising the first election shall receive the sum of two dollars, and at that and all subsequent elections the judges and inspectors shall receive the same fees as are allowed for like services at state elections. (a)

Expenses of holding first election to be borne by petitioners.

Expenses of annual elections, by whom paid, &c.

#### Supplement.

Approved March 15, 1881. P. L. 1881, p. 108.

**21.** SEC. 1. That the legal voters of any borough incorporated under the act to which this is a supplement, when the number of legal voters within the boundaries of said corporation does not exceed one hundred and fifty, may, at any election hereafter being had, decide by a majority of votes cast, whether or not said borough incorporation shall be continued or set aside. (b)

Legal voters may decide, by election, whether borough incorporation shall be continued or not.

**22.** SEC. 2. [This section repealed by Sec. 26, *post.*]

#### Supplement.

Approved March 15, 1881. P. L. 1881, p. 115.

**23.** SEC. 1. That section four of said act be and the same is hereby amended so as to read as follows:

[That on the first Tuesday of October next after the filing of the certificate of the result of the election aforesaid in the office of the clerk of the county, and on the second Tuesday of March annually thereafter, the legal voters of said borough shall assemble at some convenient place in said borough, at the hour of two o'clock in the afternoon, and those so assembled may, by viva voce vote, proceed to elect a judge and two inspectors, to conduct an election for a mayor and six councilmen, being residents and legal voters in said borough, who shall constitute the council of said borough; at the first election two councilmen shall be elected for one year, two for two years and two for three years, and two councilmen shall be elected annually thereafter to serve for three years; the mayor shall hold his office for one year.]

Election for mayor and councilmen to be held annually.

183-23  
30V-421, 88

Term of office.

**24.** SEC. 2. [Amended by Sec. 124, *post.*]

**25.** SEC. 3. That all acts or parts of acts inconsistent with this act, be and the same are hereby repealed.

Repealer.

#### Supplement.

Approved March 27, 1882. P. L. 1882, p. 192.

**26.** SEC. 1. That section two [see Sec. 22, *supra*] of an act entitled "A supplement to the act entitled 'An act for the formation of borough governments,'" approved April fifth, one thousand eight hundred and seventy-eight, which supplement was approved March fifteenth, one thousand eight hundred and eighty-one, be and the same is hereby repealed.

Repealer.

(a) See *Lakewood v. Brick*, 26 Vr. 275.  
(b) This act is not in conflict with the provisions of the constitution which prohibit the passage of any private, local or

special law regulating the internal affairs of towns and counties. *Worthley v. Steen*, 14 Vr. 542. A law which extinguishes such corporations is not a law regulating their internal affairs. *Id.*

184-27  
30V-422

Legal voters by vote to designate amount of money to be raised for borough purposes.

Proviso.

Compensation of assessors and collector.

Remedy by appeal.

Mayor and council, previous to election, to prepare statement of receipts, disbursements and amount required to be raised by tax.

Repealer.

**27. SEC. 2.** That section thirteen of the act to which this is a further supplement, be and the same is hereby amended so as to read as follows :

[That the legal voters of the said borough, at each election for mayor and councilmen under this act, shall, by vote and upon the same ballot used in voting for the officers aforesaid, designate an amount of money to be raised for borough purposes, not exceeding fifteen hundred dollars in any one year; and the sum of money designated upon the ballot having the greatest number of votes at any such election, shall be the sum to be raised by taxation for borough purposes, and the result shall be certified upon the returns of said election, and the amount of money so voted shall be assessed and collected, under the name of borough tax, by the same officers and at the same time and in the same manner as township taxes are or may hereafter be collected by law; *provided*, the same shall be assessed only upon the taxable property, real and personal, within the borough limits; and the moneys so raised shall be paid out by the township collector, upon the warrant of the council, signed by the mayor and attested by the borough clerk; and if any township collector, at the expiration of his term of office, shall have in his hands any balance of such moneys, he shall turn the same over to his successor in office; said township collectors shall be responsible, upon their official bonds as township collectors, for said moneys by them collected or received, and the assessors shall be entitled to receive three cents on each name upon their respective duplicates, for assessing such borough tax, and the township collectors shall receive the sum of five cents on each dollar for collecting and disbursing the same, and no more; if any person shall think himself or herself aggrieved by any assessment or taxation made or levied under this act, he or she shall have the same remedy, by appeal or certiorari, as in the case of township taxes.] [See Secs. 65 and 74, *post*.]

**28. SEC. 3.** That the mayor and council of the several boroughs organized under the said act, shall, at least ten days previous to their annual election on the second Tuesday of March of each year, prepare for publication a report giving an estimated statement of all moneys by them received as fines, licenses and by taxation during the preceding year, and the disbursement thereof; and they shall also name and recommend such sum or sums of money to be voted for and raised by tax as in their judgment would be necessary to defray expenses of such borough for the ensuing year, which report shall be recorded by the borough clerk, and shall at all suitable hours be accessible to the taxpayers of any such borough, and may also be published in one or more newspapers in such borough limits. [See Sec. 75, *post*.]

**29. SEC. 4.** That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

#### Supplement. (1)

Approved March 13, 1883.

P. L. 1883, p. 96.

Mayor and council to have control of streets, roads, &c.

184-30  
31V-269

Taxes collected for road purposes to be used within borough limits.

**30. SEC. 1.** That the mayor and council shall have general supervision, management and control of the streets, avenues, roads, public places and sidewalks within the borough, and shall have power and authority to accept, if public convenience requires it, any unaccepted street, road or avenue as a public highway, after the same shall have first been opened, worked and graded in conformity to the grade established thereon by the mayor and council, which street, road or avenue so accepted shall thereafter be a public charge and be kept in repair by the said mayor and council. (a)

**31. SEC. 2.** That the taxes which shall hereafter be assessed, levied and collected upon and from the real and personal property within the borough limits for roads, or for the improvement or repair of roads, by the officers

(1) See section 230, *post*, as to amendment of title.

(a) See *Avis v. Vineland*, 27 Vr. 475.

of the township in which the borough is situate shall not be used or applied to roads outside of borough limits, but that the same shall be held by the collector of the township subject to the order of the mayor and council of the borough, and shall be used by the said mayor and council for the working, repair and improvement of the streets, roads, avenues, public squares and street crossings within the borough limits. (a)

**32. SEC. 3.** [Amended and supplied by Sec. 35, *post.*]

**33. SEC. 4.** That in case the aforesaid owner or owners shall fail to grade, construct or repair such sidewalk according to the requirements of said ordinance, then the mayor and council shall cause the work to be done, and the moneys so expended, with the costs, interest and expense thereof shall be by said mayor and council assessed upon the lot or lots of land in front of which such sidewalk shall have been so graded, constructed or repaired, by resolution setting forth the name of owner, description of lot owned, and amount assessed thereon, and entered at length on their minutes; and a copy thereof, certified by the mayor and borough clerk, shall, within ten days thereafter, be delivered to the collector of taxes for the said borough, who shall at once enter the same in a book provided for that purpose, to be called "sidewalk assessments," and such assessment shall become and remain a lien on such lot or lots until paid; and if not paid within six months from passage of aforesaid assessment resolution, the mayor and council shall proceed to collect the same by enforcing such lien in the same manner and to like effect as prescribed in a certain act entitled "A further act concerning taxes, making the same a first lien on real estate and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine.

Proceedings in case owner fails to grade, construct or repair sidewalk.

185-33  
36V-529

**34. SEC. 5.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Repealer.

#### Supplement.

Passed March 11, 1885. P. L. 1885, p. 85.

**35. SEC. 1.** That section three [see Sec. 32, *ante*] of a supplement to the act entitled "An act for the formation of borough governments," which supplement was approved March thirteenth, one thousand eight hundred and eighty-three, be amended so as to read as follows:

[That the mayor and council of boroughs organized under the act to which this is a supplement, shall have power and authority to provide by ordinance (either general or special) for constructing, relaying, repairing and keeping in repair the sidewalks on any and all streets, roads, avenues or public places in general use within the borough, or which are or may be laid out upon any map or lands therein, at the cost and expense of the owner or owners of the lands in front of which the same may be so constructed, relaid or repaired, provided that all such ordinances shall provide for allowing such owner or owners at least thirty days' time within which to perform the work required thereby, and that written notice of the required work be sent to such owners by mail, if their post-office address be known; if not known, then by posting such notice on the premises affected thereby, or leaving the same with any occupant thereof, or by personal service if resident of borough.] (b)

Council may provide by ordinance for constructing, relaying, &c., sidewalks.

185-35  
31V-269  
36V-529

**36. SEC. 2.** That the mayor and council shall keep an itemized account of the cost and expense of the work performed by them as contemplated in the last preceding section of this act, in front of each lot or tract of land, and shall either assess the same upon the lands in front of which such work was done, or may sue for the same in any court of competent jurisdiction in an action of debt, or certify the said cost and expense, together with a short description of the lot or tract of land in front of which the work was done, on or before August first in each year, to the assessor of

Expenses of work performed by council may be assessed on lots.

185-36  
36V-529

(a) The power conferred on boroughs by this act to work, repair and improve public highways out of the road tax may be exercised by a mere resolution of the council. *Avis v. Vine-land*, 26 Vr. 285.

(b) See *Wall v. Rutherford*, 26 Vr. 450.

taxes within the borough, who shall assess the same upon the lands so described, under name of "sidewalk assessments," at the same time and in same manner as general taxes for that year, which when so assessed shall be and become a first lien on such lands, and be collected at same time and in same manner as such other tax.

Legal voters to designate amount to be raised for road purposes.

**37. SEC. 3.** That the legal voters of boroughs incorporated under the act to which this is a further supplement shall annually, by vote upon the same ballot used in voting for mayor and councilmen, designate an amount of money to be raised by taxation upon the real and personal property within the borough for the purpose of working, permanently improving, macadamizing, repairing and keeping in repair the accepted streets, roads, avenues and public places therein, and the laying, repairing and keeping in repair all necessary street crossings in the borough; and the sum of money receiving the greatest number of votes at any such election shall be the sum of money to be raised for the aforesaid purposes within the borough, and the result shall be certified upon the returns of said election and the sum of money so voted shall be assessed and collected at same time and in same manner as other borough tax, under the name of "road tax," and the money so raised and collected shall be held by the collector thereof subject only to the warrant of the council, signed by the mayor and attested by the borough clerk under the corporate seal; *provided, however,* that in case of failure of the legal voters of the borough to so designate the amount of money to be raised as "road tax" by reason of a tie vote or that this act shall not become a law before the annual election to be held in March, eighteen hundred and eighty-five, or for any other reason, then it shall be lawful for the mayor and council at any regular meeting to fix such road tax levy at a sum not exceeding three-fifths of one per centum of the valuation of the real and personal property within the borough as assessed the preceding year; *and provided, further,* that no township or other road tax shall be assessed or collected within the borough. (a)

Ordinances and resolutions appropriating money to be approved by mayor or returned within seven days.

**38. SEC. 4.** That every ordinance passed by the council and every resolution of such council appropriating or tending in any way to pecuniarily obligate the borough, and also resolutions auditing or directing the payment of bills or demands, together with such bills, shall, before the same or either of them take effect and within five days after the passage thereof (Sundays excepted), be presented to the mayor; if he approves it he shall sign it, if not, he shall return the same within seven days (Sundays excepted) after its receipt by him to the borough clerk, with his objections thereto in writing, and the council shall at their next regular meeting cause the objections to be entered at length on their minutes, and proceed to reconsider the same, and if two-thirds of all the members of the council shall vote to pass the same it shall take effect; if such ordinance or resolution shall not be so returned by the mayor within seven days (Sundays excepted) after he receives it, then it shall take effect the same as if he shall have signed it; *provided,* that if any resolution or bill shall contain more than one distinct section, clause or item, the mayor may approve one or more thereof and veto the rest.

186-38  
32V-153

Proviso.

Lands sold for unpaid taxes may be purchased by borough.

Time of opening and closing the polls.

Provision for curbing streets and assessing expenses on lands benefited.

**39. SEC. 5.** That it shall be lawful for the mayor and council, at any sale of lands for unpaid taxes or assessments, to cause the same to be purchased (in case of no bidders) in the corporate name of the borough for the use and benefit of the borough, and to hold, possess and enjoy the same and the rents and profits thereof, as provided by law.

**40. SEC. 6.** That when the election for borough officers falls on the same day as the annual township election, within which such borough is situate, the polls for the borough election shall open and close at same time as the polls of such township election.

**41. SEC. 7.** That the mayor and council shall have power and authority to provide by ordinance for the curbing and guttering of any street, road, avenue or public place, or any part thereof, within the borough, and assess

(a) The power conferred on boroughs by this act to work, repair and improve public highways out of the road tax, may

be exercised by a mere resolution of the council. *AVIS v. Vineland, 26 Vr. 285.*

the cost and expense thereof upon the several lots or parcels of land and real estate within the borough specially benefited thereby, and in proportion to the benefits received by each one of said lots or parcels of land and real estate, and no lot or parcel of land shall be assessed more than benefited, and if there be any surplus of such cost and expense after making the said assessments, then such surplus shall be borne by the borough at large, and shall be assessed and collected at same time and in same manner as borough taxes are assessed and collected, and that all such assessments made as herein directed shall be, become and remain from date of such assessment until paid, a first and paramount lien upon the lands and real estate so assessed, and that in case any such assessment shall remain unpaid for the space of sixty days after the same shall have been so assessed, then the mayor and council shall proceed to collect the same, together with interest from date of assessment, at and after the rate of ten per centum per annum, and all costs and expenses thereof, by the sale of the lots, tracts or parcels of lands so assessed, in the same manner and form and to like effect in all things as prescribed for the sale of lands for unpaid taxes under and by virtue of an act entitled "A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine.

**42. SEC. 8.** That the borough clerk shall have power and authority to take and administer oaths, affirmations and affidavits in all borough matters required, with like force and effect in all things as if taken by a justice of the peace, and to charge therefor a fee of ten cents for his own use.

Borough clerk  
may administer  
oaths.

**43. SEC. 9.** That such warrants or other process as the mayor may lawfully issue may be legally served or executed throughout the county within which the borough is situate, and may be served or executed in other counties in like manner as warrants of justices of the peace now are.

Warrant by mayor,  
or, how served.

**44. SEC. 10.** That the assessor shall assess all taxes to be by him levied and assessed within the borough in a separate and distinct tax duplicate from township taxes, the same to be provided as other duplicates now are.

Taxes, how  
assessed.

**45. SEC. 11.** That the election of the first officers of boroughs incorporated under the act to which this is a further supplement may be held on any Tuesday after two weeks from the date of filing of the certificate of the result of the election referred to in section three of said act.

Election of first  
officers.

187-45  
30V-421

**46. SEC. 12.** That all acts and parts of acts, both general and special, inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

#### Supplement.

Approved March 24, 1885.

P. L. 1885, p. 126.

**47. SEC. 1.** That the petition for the constitution of a borough set forth in the second section of the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, shall be presented to the judge of the court of common pleas in and for the county in which said proposed borough is situated, instead of to a chosen freeholder of the said township as therein provided, and said judge shall thereupon issue an order for such election, in lieu of, but in all respects substantially conforming to the notice required thereby to be issued by said chosen freeholder; and he shall in and by said order appoint the clerk and two inspectors of election mentioned in the third section of said act; and such original order shall be filed in the office of the clerk of said county and copies thereof shall be set up and published as required by said act, to which shall be annexed a statement of the day and place when and where said original order was filed; and within thirty days after the election held pursuant to said order, and before any further proceedings are taken under said acts, proofs of the setting up and publication thereof as required by law shall be filed in said clerk's office where said original order was filed.

Petition for the  
constitution of  
borough, to whom  
presented.

Order for election.

## BOROUGHES.

Petition to be disposed of before another entertained.

**48. SEC. 2.** That when a petition for the constitution of a borough shall have been duly presented to said judge as aforesaid, no other petition for the constitution of a borough which embraces or proposes to embrace the same or any portion of the territory included in the borough proposed in said first-mentioned petition, shall be presented to or entertained by said judge until the proceedings under said first-mentioned petition are finally disposed of by an adverse vote or otherwise abandoned.

Qualifications of voters.

**49. SEC. 3.** That the persons entitled to vote at any election provided for in said act, must, in addition to the qualifications therein required, have resided within the limits of said borough or said proposed borough at least sixty days prior to said election.

Repealer.

**50. SEC. 4.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

P. L. 1886, p. 122.

Designation of justice of the peace to try complaint for violation of ordinances.

## Supplement.

Approved March 26, 1886.

**51. SEC. 1.** That the mayor and council of any borough may select and designate a justice of the peace in the borough to try and determine all causes and complaints for violation of any ordinance of its mayor and council, and the justice of the peace so selected and designated shall have the same power and authority to issue process, try and determine said causes, fine and imprison, upon conviction, in all respects, as the mayors of boroughs are now given by law.

Grades and boundaries of streets, how established.

**52. SEC. 2.** That it shall be lawful for the mayor and council of any borough to make and establish ordinances for ascertaining and establishing the grades and boundaries of all streets, avenues, alleys and sidewalks therein.

P. L. 1886, p. 234.

Mayor and council authorized to contract for macadamizing streets, roads, &c.

## Supplement.

Approved April 16, 1886.

**53. SEC. 1.** That it shall be lawful for the mayor and council of boroughs organized under the act to which this is a supplement, to enter into contract or contracts for the macadamizing or otherwise permanently improving the public streets, avenues or roads within the borough as soon as the amount of money to be raised by tax for road purposes therein is ordered or voted to be assessed in manner provided by law, and in anticipation of the assessment or collection thereof; *provided, however*, that the aggregate amount of the contract or contracts so entered into shall not exceed seventy-five per centum of the amount of money so ordered to be assessed or collected for road tax in any one year; *and provided further*, that when contracts have been entered into to the full amount hereinbefore specified, then no other contracts shall be entered into until the previous ones have been fully completed and all the obligations thereunder fully discharged.

P. L. 1886, p. 255.

Borough governments may be formed by inhabitants of any municipal government except city or town.

Application to justice of supreme court, &c.

## Supplement.(1)

Approved April 22, 1886.

**54. SEC. 1.** That a borough government may be formed under this act, and the act to which this is a supplement, by the inhabitants of any portion of this state now subject to the government of commissioners or a police and sanitary board, or any other form of municipal government other than that of an incorporated city or town, provided an application therefor shall be made to any justice of the supreme court or presiding judge of the court of common pleas of the county where such proposed borough is to be situate, setting forth the name of the proposed borough, signed by the owners of at least one-half in value of the taxable real estate within the limits of the proposed borough, as the same appears by the last duplicate of the assessor whose duty it is to assess the property in the territory in the proposed borough; *provided*, that due notice of such appli-

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Notice of application.

(1) This supplement declared invalid by the supreme court as being in contravention of the constitutional prohibition against local and special laws regulating the internal affairs of towns, &c. *Long Branch v. Sloan*, 20 Vr. 356.

cation shall be advertised at least ten days previous to its being made, by bills posted in not less than five public places in the municipality, and by notices inserted in two successive issues of a newspaper published in such municipality, or, if there be none, in the one published nearest.

**55. SEC. 2.** That the inhabitants of the territory embraced in the said proposed borough shall be a body politic and corporate in fact and in law.

Inhabitants to be a body politic and corporate.

**56. SEC. 3.** That this act and the act to which this is a supplement shall take effect whenever, at a general election or a special election to be called for that purpose as hereinafter provided, the legal voters residing within the said municipality at the time of the said special election shall accept the powers conferred by this act and the act to which it is a supplement, such acceptance to be shown by the votes of a majority of those voting at said election.

Act to take effect when accepted by legal voters at a general or special election.

**57. SEC. 4.** That the special election shall be called by the justice or judge to whom the application has been made as aforesaid, at a time to be named by him not more than thirty days from the date of said application, to be held at the usual polling places within the municipality, by notice in writing under his hand, which notice shall contain an accurate description of the name and boundaries of the proposed borough, and state the object of the said election to be to vote for or against the incorporation of the said proposed borough, under the provisions of this act and the act to which this is a supplement; which notice shall be set up at least ten days previous to said proposed election, in five of the most public places within the said municipality, and published at least twice in a newspaper printed and published within the said municipality, if any, or, if none is so published, then in a newspaper printed and published in the county wherein said proposed borough is situated.

Special election, by whom called and when held.

**58. SEC. 5.** That the polls shall open and close at the same hours as at general elections in this state, and the election shall be conducted as nearly as may be in like manner as general elections are conducted; the ballots cast shall contain the words "for incorporation" or "against incorporation," as the case may be; at the close of the polls the said clerk and inspectors shall canvass the votes cast, and if a majority of said votes shall be for incorporation, they shall forthwith certify the result of said election and the number of votes cast for and against, under their hands, to the clerk of the county wherein said borough is situated, to be filed in his office; and from the time of filing said certificate in the office of the clerk of the county, as aforesaid, the inhabitants of said proposed borough shall be a body corporate, in fact and in law, under the name of "the mayor and council of the borough of \_\_\_\_\_," and by said name shall have perpetual succession, sue and be sued, prosecute and defend in all courts of law and equity in this state, have a common seal and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of said borough; the persons voting at such elections shall be those qualified to vote at elections for members of the legislature in this state.

Notice of election to be posted up and published in newspaper.

Election, how and by whom conducted.

Result of election to be certified and filed with county clerk.

Corporate name, &c.

Who entitled to vote.

**59. SEC. 6.** That within thirty days next after the filing of the certificate of the result of the election aforesaid in the office of the clerk of the county, and on the first Tuesday of May annually thereafter, the legal voters of said borough shall assemble at some convenient place in the said borough at the hour of two o'clock in the afternoon, and those so assembled may, by viva voce vote, proceed to elect a judge and two inspectors to conduct an election for a mayor and six councilmen, being residents and legal voters in said borough, who shall constitute the council of said borough; at the first election two councilmen shall be elected for one year, two for two years, and two for three years, and two councilmen shall be elected annually thereafter to serve for three years; the mayor shall hold his office for one year; and at the same time shall elect an assessor and collector who shall hold office for the term of one year; the said collector of taxes shall enter in suitable books to be kept for the purpose the sums received by him for taxes respectively with the names of the persons on whose account the same shall be paid each day.

Legal voters to assemble and elect officers of election.

Term of office of mayor, councilmen, assessors and collector.

Election, how held and by whom conducted.

Judges of election to certify result.

County clerk to give notice of first election.

Proviso.

Mayor and council to meet and appoint clerk.

Duties of clerk.

Mayor and council to hold office until successors are qualified.

Mayor to have powers and jurisdiction of justice of the peace.

Quorum of council, how constituted.

Mayor to preside at meetings.

**60. SEC. 7.** That the judges and inspectors so chosen, having first taken and subscribed an oath or affirmation honestly and impartially to hold and conduct said election, shall forthwith open the polls for the election of the officers aforesaid; the said election shall be by ballot, and shall be conducted in same manner, as nearly as may be, as elections for members of the legislature are conducted; the persons voting at said election shall be those who are qualified to vote at elections for members of the legislature in this state; the polls shall remain open until seven o'clock in the evening, and at the closing of the polls the judge and inspectors holding said election shall canvass the votes cast and certify the result, with the number of votes cast for each candidate, to the clerk of the county wherein said borough is situated, and shall also deliver a copy of said certificate, under their hands, to the clerk of the borough.

**61. SEC. 8.** That the clerk of the county wherein said borough is situated shall give notice ten days previous to the first election under this act of the time and place of holding the same, by advertisements signed by himself and set up in five public places in said borough, and also published at least once in a newspaper printed and published in said borough, if any, or, if none be so published, then in a newspaper printed and published in the county wherein said borough is situated; and of all subsequent elections the borough clerk shall give the like notice; *provided*, that after the first election the council may, by ordinance, fix a place for holding said elections.

**62. SEC. 9.** That after the first election the mayor and council then elected shall assemble in some convenient place and, having first taken and subscribed an oath or affirmation before some person authorized to administer an oath, well and faithfully to perform the duties of their respective offices, which oath or affirmation shall be filed with the borough clerk, shall proceed to appoint some suitable person resident in the borough to be borough clerk, who shall hold his office at the pleasure of the council, and shall attend all meetings of the council, keep a correct record of all their proceedings and perform such other duties as the council may require of him or as may be directed by this act, and upon the appointment of his successor shall deliver to him all books, papers and property of the said borough in his possession or under his control; the mayor and council shall hold their respective offices until their successors are qualified, and every person elected as mayor or councilman shall take an oath or affirmation, as hereinafter provided, before he enters upon the duties of his office.

**63. SEC. 10.** That the mayor of said borough shall have, by virtue of his office, the same jurisdiction in criminal matters as is now possessed by justices of the peace, together with such other powers as may by this act, and the act to which this is a supplement, be specially conferred upon him, and shall have power to arrest without process, or to issue his warrant for the arrest of any person guilty, or whom he may have reason to believe guilty of any breach of the peace or violation of any ordinance of the said borough, and to try and determine all causes and complaints aforesaid, and is hereby authorized and empowered to commit any person so offending to the lock-up of the said borough for any time in his discretion not exceeding ten days, or to impose a fine not exceeding twenty dollars, or both; he shall keep a record, in a book to be provided for that purpose, of all proceedings and convictions before him under this act, or the act to which this is a supplement, and shall hold all fines and penalties subject to the order of the council; all writs or warrants by him issued may be directed to one of the marshals of the borough or to any constable of the county, who shall duly execute the same.

**64. SEC. 11.** That the mayor and council shall meet at such time and place as they may by their by-laws direct, and two members of the council and the mayor shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time; all meetings shall be presided over by the mayor, but he shall not vote except to give the casting vote in case of a tie; in the absence of the mayor, the

three members of the council shall constitute a quorum, one of whom may be appointed to preside.

**65. SEC. 12.** That the thirteenth section of the act to which this is a supplement be amended so as to read as follows :

[That the legal voters of the said borough, at each election for mayor and councilmen under this act, shall, by vote and upon the same ballot used in voting for the officers aforesaid, designate an amount of money to be raised for borough purposes, which sum so designated, being certified upon the returns of said election, shall be assessed and collected under the name of borough tax in the manner hereinafter provided; *provided, nevertheless*, the sum so designated shall not exceed the amount to which the property was subject for borough or commission purposes prior to the passage of this act. [See Sec. 27, *ante*.]

Legal voters to designate on ballot amount of money to be raised for borough purposes.

Proviso.

**66. SEC. 13.** That in all places adopting this act, the present members of the governing board shall continue in office until the expiration of the term for which they were elected or appointed.

On adoption of this act members of governing board to continue in office until end of term.

**67. SEC. 14.** That the collector, who shall act as treasurer, shall give bonds satisfactory to the said board, possess the powers and perform the duties, and be subject to the same penalties as the collectors of the several townships in this state, and shall receive all moneys assessed in said borough, and for said services he shall receive a yearly compensation not to exceed three hundred dollars, and in addition thereto, the costs accruing upon collection of delinquent taxes; and upon receipt of the duplicate of assessment of taxes, shall proceed in the collection thereof as is now required by law to be done by the collectors of the several townships of this state.

Collector to act as treasurer, his powers, duties and compensation.

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**68. SEC. 15.** That the assessor shall possess the same powers and perform the duties in the same manner as the assessors in the several townships in this state, for which services he shall be paid at the same rate and in the same proportion as the assessors of the several townships in this state, and immediately after the first Monday in June in each and every year, shall proceed to make, and, by the fifteenth day of July following, shall have made a full and fair valuation, enumeration and assessment of all the taxable real and personal property in such commission, according to law and the requirements of the ordinances of said mayor and councilmen; and on or before the first Monday in August in each year shall deliver the duplicate of such assessment to the collector.

Duties and compensation of assessor.

**69. SEC. 16.** That the persons appointed to the several offices in such borough shall, within twenty days after such appointment, take and subscribe an oath before some officer authorized by the laws of this state to administer oaths, that they will faithfully perform the duties of said offices to which they are appointed, and if any person appointed to any office in such borough shall not so qualify within said time, his office shall be deemed vacant.

Officers to take oath.

**70. SEC. 17.** That in case of vacancy in any subordinate office in such borough, occasioned by death, resignation, inability, disqualification, removal from office, or neglect or refusal to act, or other cause, it shall be lawful for the said board to appoint others in their stead to fill such office for the unexpired term thereof.

Vacancies in office, how filled.

**71. SEC. 18.** That in case said borough or any part thereof shall be formed out of territory within the limits of a former borough or commission, the governing bodies of said boroughs shall meet on the second Monday after said first election of mayor and council, at ten o'clock in the forenoon, at the usual place of meeting of the governing body of said former borough, and afterwards, if necessary, at such times and places as the majority of those present may determine, and then and there, by writing signed by a majority of each of said governing bodies, allot and divide between said boroughs such property, if any, as may be owned by the said former borough, and also such moneys and assets as may be on hand or due or to become due to said boroughs, in proportion to the taxable property and ratables in said boroughs or commissions respectively, as shall be determined by the last assessment of taxes of the said former

Allotment and division of moneys on formation of new borough.

borough or commission; and each of the said boroughs or commissions shall be and remain liable to pay its just proportion of the debts and obligations of the said former borough, according to said last assessment, as the said debts and obligations shall exist at the first election of said mayor and council, until the same are fully paid and discharged, such proportion of said indebtedness to be assessed on the inhabitants of said boroughs or commissions respectively in the manner provided by law; and if any of the persons composing either of said boroughs or commission shall refuse or neglect to meet as aforesaid, those assembled may proceed to make said division, and the decision of a majority of those present shall be final and conclusive.

Repealer.

**72. SEC. 19.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

#### Supplement.

P. L. 1886, p. 325.

Authorized to appoint corporation counsel and street commissioner.

Approved April 23, 1886.

**73. SEC. 1.** That the mayor and council, or other legislative body of any borough, be and they hereby are authorized to appoint a corporation counsel and street commissioner, who shall, respectively, hold office for the term of one year and until their respective successors shall be duly appointed and qualified; they shall respectively perform such service and receive such compensation as the mayor and council or other legislative body shall by ordinance or resolution prescribe.

#### Supplement.

P. L. 1887, p. 56.

Legal voters may designate sum of money to be raised by taxation for borough purposes.

Approved March 29, 1887.

**74. SEC. 1.** That hereafter it shall and may be lawful for the legal voters in any borough incorporated in pursuance of the act to which this is a supplement or the supplement thereto, at each election for mayor and councilmen, by vote, and upon the same ballot used in voting for said officers, to designate the sum of money which shall be raised by taxation for borough purposes for the ensuing year; and the amount or sum having the greatest number of votes shall be the limit of moneys so raised by taxation; *provided*, that such sum shall not exceed a tax of fifty cents on every hundred dollars of assessed valuation of the taxable real and personal estate situated in said borough.

Statement of receipts and expenditures to be published prior to annual elections.

**75. SEC. 2.** That it shall be the duty of the mayor and council of said boroughs ten days prior to the annual election to prepare and publish in a newspaper, issued in or near to such borough, and by a copy posted in a public place at the town hall, a statement of the receipts and expenditures for borough purposes within the past year, and a proposal of the sum of money which they shall deem it necessary to raise by taxation for the ensuing year, and the principal objects for which it shall be expended.

Authorized to lay culverts or drains.

**76. SEC. 3.** That it shall be lawful for the mayor and council of any such borough to lay suitable culverts or drains for the waste water and sewage under the roads and streets or alleys therein, or, if necessary, through private grounds within the limits of their corporate area, and to pay for the cost of such drains or culverts out of the fund raised for general purposes by taxation; *provided*, that where culverts are laid through private property any damage done to the owners thereby shall be compensated out of the borough funds; said damages to be ascertained, where the borough council and owners cannot agree, by three arbitrators, of whom the mayor and council shall choose one, and the landowner shall choose another, and the two thus chosen shall name the third; the award of any two of such arbitrators to be conclusive of the sum due.

Marshals or police authorized to make arrests without warrants.

**77. SEC. 4.** That the marshals or police who may be appointed by the mayor and council of such boroughs to preserve order therein shall have power to arrest upon view and without warrant any person whom they may see committing a breach of the peace or any law or ordinance of the said borough or of the state, and to take such person before the mayor of

the said borough, or in his absence before the nearest justice of the peace for a hearing; such hearing to be had within twenty-four hours of the arrest or the prisoner shall be discharged.

**78. SEC. 5.** That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall be deemed a public act and shall take effect immediately. Repealer.

## Supplement.

Approved April 1, 1887. P. L. 1887, p. 126.

**79. SEC. 1.** [Amended and supplied by Sec. 103, *post.*]

**80. SEC. 2.** That the mayor and council, upon receiving the application referred to in the preceding section, shall cause the borough clerk to give notice of the intention of the mayor and council to cause such improvement to be made or such work to be done or performed, briefly describing such work or improvement, and requiring such persons as object thereto to present their objections in writing to the said clerk on or before a day therein named, not less than ten days after the date of said notice, which said notice shall be posted in three of the public places in the borough, one of which shall be at the post-office thereof, and also published in at least two of the newspapers printed and published or circulating in the borough; if no objection be so filed within the time required therefor, then the mayor and council may proceed to consider the improvement ordinance; but if objections be filed a time shall be fixed for hearing the same, and those objecting notified thereof in writing. Notice of intention of grading street, &c., to be given.

**81. SEC. 3.** That after the passage of such ordinance any and all further acts and proceedings necessary to complete the improvement contemplated by section one hereof shall be by resolution. (a) Further proceedings necessary may be by resolution.

**82. SEC. 4.** That the mayor and council shall ascertain the whole amount of the cost and expenses of said improvement, and shall cause to be made a just and equitable assessment thereof upon the lands and real estate benefited thereby in proportion to the benefits received thereby, and no lands or real estate shall be assessed beyond benefits; and in case the costs and expenses of the improvement shall exceed the benefits, the excess shall be paid out of the general road tax. Costs and expenses to be assessed upon lands and real estate benefited.

**83. SEC. 5.** That the mayor and council shall appoint three disinterested resident freeholders of said borough (residing in different wards, if the borough be divided into wards) commissioners to make the assessment of the costs and expenses of such improvement or work in the manner herein contemplated. (b) Commissioners, how appointed.

**84. SEC. 6.** That the said commissioners, before they enter upon their duties, shall take an oath or affirmation before the mayor or borough clerk to make the said assessment impartially, according to the best of their skill, judgment and understanding. Commissioners to take oath.

**85. SEC. 7.** That the said commissioners shall make a report, in writing, of the assessments so made and of the excess (if any) of the costs over benefits, and before proceeding to sign said report, shall file the same in the borough clerk's office, and shall give notice of the time and place when and where the parties interested can be heard by the commissioners, which notice shall be posted in three of the most public places in the borough, one of which shall be at the post-office thereof, and also published in at least two of the newspapers printed or published or circulating in the borough, and after hearing the parties, the said commissioners shall proceed to correct and complete the report and sign the same and return said report with all objections presented to them in writing, and the said report shall be brought before the mayor and council by the borough clerk at the next regular meeting after the same is filed, and the mayor and council shall fix a time for the examination and confirmation of said report and shall give like notice thereof and in the manner provided in this section for hearings. Commissioners to make report. Report to be filed. Notice of filing, &c., to be posted and published.

(a) Where the improvement of a public highway has been inaugurated by ordinance, a change in grade may be lawfully effected by a resolution. *Meday v. Rutherford*, 23 Vr. 499.

(b) See *Raymond v. Rutherford*, 26 Vr. 442.

When report is ratified or confirmed assessments made to remain a lien on lands, &c.

Borough clerk to record report and furnish abstract to collector.

Sale of lands for payment of assessments, how made.

Authorized to issue certificates of indebtedness.

Proviso.

Assessor's map to be made.

before the said commissioners, and the mayor and council, at the time fixed therefor, shall examine the matter and correct said report and assessment and ratify the same, and every report so ratified shall be final and conclusive, and the assessments so made shall thereupon become and remain a first and paramount lien upon and against the lands and real estate so assessed until paid.

**86. SEC. 8.** That upon the confirmation of said report the borough clerk shall make an abstract of such assessment and record the same in a book kept for that purpose, and after so recording said abstract shall deliver the same to the collector, who shall proceed thereon in the same manner as provided by law for the collection of taxes.

**87. SEC. 9.** That in case any of the said assessments are not paid within ninety days after the date of confirmation the mayor and council shall proceed to collect the same by issuing their warrant for the sale of the lands and real estate so assessed in the same manner and to the same effect in all things as provided in and by an act entitled "A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine.

**88. SEC. 10.** That the mayor and council shall have authority to issue certificates of indebtedness to an amount not exceeding the cost of any improvement contemplated in and by this act, and of section seven of a supplement to the act to which this is a supplement, which supplement was passed March eleventh, one thousand eight hundred and eighty-five, and in anticipation of the collection of the assessments made or to be made therefor, which certificates shall be redeemable after one year from date, and payable in five years, and shall draw such rate of interest, not exceeding six per centum per annum, as may be advisable; *provided, however,* the aggregate amount of such certificate shall never exceed two and one-half per centum of the assessed valuation of the real estate within the borough, and that all moneys received from any such assessments shall be held and only applied toward the payment of said certificates of indebtedness.

**89. SEC. 11.** That the mayor and council shall cause an assessor's map of the borough to be made, among other things showing the location and width of each street, road or avenue, and of each individual lot of land or premises, and cause the same to be numbered or otherwise designated thereon, and may, for that purpose, issue certificates of indebtedness for the cost thereof, redeemable after three years and payable in seven years from date, together with such rate of interest, not exceeding six per centum per annum, as may be advisable.

#### Supplement.

Approved February 15, 1888.

P. L. 1888, p. 50.

When township property becomes vested in borough.

**90. SEC. 1.** That whenever the inhabitants of any township in this state shall become a body corporate in fact and in law in the manner provided by the act to which this is a supplement, and such corporation shall embrace the whole of such township, that the mayor and common council of such borough so incorporated as aforesaid shall by virtue of this act, become and be absolutely and completely vested with, possess and enjoy all the lands, tenements, hereditaments, property rights, causes of action and estates whatsoever, both in law and in equity, in possession, reversion or remainder, which at the time of such incorporation as aforesaid are or may hereafter become vested in or belonging to the inhabitants of any such township as aforesaid, according to such estate and interest as any such township at the time of the passage of this act has or may hereafter have, or of right ought to have in the same; and the powers and duties of the officers of such township shall cease and determine when corresponding officers shall have been elected and duly qualified; and all officers appointed or elected under this act or the act to which this is a supplement, shall respectively possess the powers and perform the duties of the like officers of any township of this state so far as such powers and duties shall be consistent with the provisions of this act.

**91. SEC. 2.** That all acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed. Repealer.

## Supplement.

Approved March 1, 1888.

P. L. 1888, p. 119.

**92. SEC. 1.** That from and after the passage of this act, every collector of borough taxes shall receive and be allowed for disbursing the moneys by him collected and disbursed under the name of borough tax, by virtue of the provisions of the act to which this is a further supplement, the sum of one dollar, and no more, for every hundred dollars of such moneys so by him disbursed. Compensation of borough collector for disbursing moneys collected by tax.

## Supplement.

Approved March 6, 1888.

P. L. 1888, p. 140.

**93. SEC. 1.** That at each annual borough election held for the election of a mayor and council of any borough, there shall be elected an assessor and collector and three judicious freeholders of good character, to hear and finally determine all appeals relative to unjust assessments in cases of taxation, to be known as the borough assessor, collector and commissioners of appeal, and that when so elected such assessor, collector and commissioners of appeal shall hold their offices respectively for one year, have and possess the same powers and authority, perform the same duties and receive like compensation as are now had, performed and received by the various township assessors, collectors and commissioners of appeal of this state. (a) Assessor, collector and commissioners of appeal to be elected at annual borough election.

Term of office, &amp;c.

**94. SEC. 2.** That such collector shall enter into bond to the mayor and council of such borough, to be approved by the mayor and council and in such amount as shall be deemed sufficient by said mayor and council. Collector to give bond.

**95. SEC. 3.** That the mayor and council of any borough shall have power to fill any vacancy which may at any time exist in either of said offices, and such officers shall hold such offices until the next annual election. Mayor and council may fill vacancies.

**96. SEC. 4.** That the persons qualified to vote in the boroughs of this state shall meet in every year at the time and place of holding borough elections, then and there to elect as hereinafter provided, one judge and two inspectors of election, who shall act as such judge and inspectors at all elections to be held during the year next following such annual meeting. Election for judge and inspectors of election.

**97. SEC. 5.** That each of said qualified voters shall vote for one person as judge and also for one person as inspector of election, and the person having the greatest number of votes for judge shall be publicly declared to be elected judge, and the two persons having the greatest number of votes for inspectors shall in like manner be declared elected inspectors of election. How judges and inspectors shall be elected.

**98. SEC. 6.** That said judge and inspectors so elected shall constitute the election board of such borough, with like powers as are now possessed by boards of election of any township of this state, and the clerk of the borough shall be the clerk of said board, perform the same duties and shall be entitled to receive and shall give like notice of election as are now given to and required of the various township clerks of this state. Judge and inspectors to constitute the board of election.

**99. SEC. 7.** That when any borough of this state shall contain more than six hundred voters the mayor and council of such borough shall proceed to divide the same into election districts, so as not to contain more than six hundred voters in each district, and the election officers of such new election districts shall be elected in the manner provided in the eighteenth section of the act to regulate elections. When borough to be divided into election districts.

**100. SEC. 8.** That the board of election in any borough of this state in any such election shall appoint one member of said board of election in such borough to attend the meetings of the county board of canvassers for such election in the county in which such borough is situate, as a member thereof, and shall deliver to the member who shall have been so appointed, the original statement of the result of such election in such borough, which Board of election to appoint member to attend meeting of county canvassers.

(a) Assessor and collector not empowered to assess and collect state, county or township taxes within the borough. *Wainwright v. Craig*, 22 Vr. 462.

shall have been made, certified and subscribed as hereinbefore directed; and it shall be the duty of the members of the several boards of election who shall have been so appointed to attend the meeting of the board of county canvassers for such election in the county in which they shall have been appointed as members thereof.

Repealer.

**101. SEC. 9.** That all acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act take effect immediately.

P. L. 1888, p. 161.

Supplement.

Approved March 8, 1888.

**102. SEC. 1.** [This section and act are repealed by Sec. 137, *post.*]

P. L. 1888, p. 226.

Supplement.

Approved March 23, 1888.

**103. SEC. 1.** That section one [see Sec. 79, *ante*] of the act entitled "A further supplement to 'An act for the formation of borough governments,'" approved April fifth, one thousand eight hundred and seventy-eight, which further supplement was approved April first, one thousand eight hundred and eighty-seven, be and the same is hereby amended so as to read as follows:

Mayor and council authorized to lay out and improve streets.

[That the mayor and council of boroughs organized under the act to which this is a further supplement, shall have power and authority by ordinance to lay out, open, extend, alter, widen, straighten and vacate streets, roads, avenues and highways, whether the same be dedicated or otherwise obtained to and for public use, and also to grade, pave, gravel, macadamize or otherwise improve any street, road, avenue, public square or place within the borough; and when for either of the objects or purposes aforesaid it is necessary to take undedicated lands, then to treat with the owner or owners of the lands so to be taken and pay for the same such compensation as may be just and right; and if the mayor and council are unable to agree with such owner or owners, or by reason of legal incapacity, or the absence of any of such owners, no agreement can be made with them, then commissioners, appointed as hereinafter provided, shall estimate and fix the damages such owners will sustain; *provided, however*, that application in writing, describing the nature, kind and extent of the work or improvement desired, signed by the owners of at least one-quarter of the lineal feet of land fronting on the street, avenue, road or highway so proposed to be opened, laid out, extended, altered, widened, straightened, vacated, graded, paved, graveled, macadamized or otherwise improved, be first presented to the mayor and council.] (*a*)

Proviso.

**104. SEC. 2.** That the legal voters of boroughs organized under the act to which this is a further supplement shall, at each annual election for mayor and councilmen, elect an assessor and collector of taxes for the borough; *provided*, that an assessor and collector shall be elected at the ensuing annual election in March, one thousand eight hundred and eighty-eight, in case this act takes effect in time to allow the borough clerk to give public notice that such officers are to be elected thereat, at least five days before such annual election. (*b*)

Term of office.

**105. SEC. 3.** That the term of office of such assessor and collector shall commence on the first day of May after such election, and continue for the period of one year thereafter.

Powers and duties of assessor.

**106. SEC. 4.** That the said assessor shall be a member of the county board of assessors and shall possess the same powers and perform the same duties as assessors of the several townships of this state, and he shall, on or before the third Tuesday of August in each year, deliver the duplicate of such assessment to the mayor and council for revision, addition and correction, as provided by law.

(*a*) See *Ware v. Rutherford*, 26 Vr. 453.

(*b*) See *Wainwright v. Craig*, 22 Vr. 465, as to the effect of this act upon the act embraced in sections 93 to 101, *ante*.

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- 107. SEC. 5.** That the said collector shall possess and perform all the powers and duties of the collectors of the several townships in this state, and in addition thereto he shall collect, have, hold and receive all moneys assessed or raised by taxation or assessment for any and all purposes within the borough and also all fees for licenses, fines, penalties and other moneys in any way belonging to the borough, and which said taxes, assessments and moneys of every kind and nature, except only school moneys, shall be held by said collector and be paid out by him only upon the warrant of the mayor and council, signed by the mayor, attested by the borough clerk with the corporate seal affixed, which said warrant shall, among other things, state the fund against which drawn, and be dated the day upon which the same was ordered issued by the mayor and council; *provided, however,* that it shall not be lawful for the mayor and council to order warrants drawn on the collector except at a regular meeting or an adjourned regular meeting, and that all meetings of the mayor and council shall be held within the borough. (a)
- 108. SEC. 6.** That the said assessor and collector shall receive such yearly compensation for their services as the mayor and council shall by ordinance fix and determine, and which compensation shall not be increased or diminished during the term for which such officer was appointed.
- 109. SEC. 7.** That vacancies in either of said offices shall be filled for the unexpired term only.
- 110. SEC. 8.** That the collector shall give such bonds or other security, for the faithful performance of his duties as the mayor and council shall require.
- 111. SEC. 9.** That the said assessor and collector shall, before entering upon the discharge of their duties, take and subscribe an oath to well, truly and faithfully discharge and perform the duties of their offices, which oath shall be filed in the borough clerk's office.
- 112. SEC. 10.** That the assessor shall assess the lands and real estate by streets, and he shall not lump together separate tracts or parcels of land belonging to the same individual or corporation.
- 113. SEC. 11.** That the said collector shall keep in his office in a book provided for the purpose, an alphabetical list of the names of the taxpayers within the borough, together with their post-office address, so far as he can ascertain the same.
- 114. SEC. 12.** That the mayor and council shall have power and authority to issue borough bonds for the following purposes, to wit: macadamizing streets, roads and avenues; building borough hall, fire engine houses; laying and constructing sewers and water works; *provided, however,* that before any such bonds shall be issued, a petition requesting the issuing of such bonds, specifying the amount to be issued and the purposes for which they are to be used, shall be presented to the mayor and council at a regular meeting thereof, signed by at least one-fourth of the legal voters within the borough; and the mayor and council shall, upon receipt of said petition, fix a time and place for the consideration thereof, and for hearing arguments and allegations for and against the issuing of such bonds, which shall not be less than twenty days after its receipt, and shall cause the borough clerk to give notice thereof by publication in the papers printed and published in the borough, and by posters set up in at least ten public places within the borough, one of which shall be at the post-office therein; and in case, after such consideration and hearing, the mayor and council shall determine that it shall be expedient to issue said bonds, then said mayor and council shall cause a resolution specifying the amount of bonds to be issued, and the object for which they are to be used, to be submitted to the legal voters of the borough, by causing such resolution to be written or printed on ballots, underneath which shall be written or printed "for the above resolution," or "against the above resolution," which vote may be taken at the annual election or a special election, to

Powers and  
duties of col-  
lector.197-107  
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Compensation of  
assessor and  
collector.Vacancies, how  
filled.Collector to give  
bond.Assessor and  
collector to take  
oath.How lands  
assessed.Collector to keep  
list of taxpayers.Mayor and coun-  
cil may issue  
bonds for certain  
purposes.  
Proviso.

(a) All taxes to be assessed upon property within boroughs to which this act applies are to be assessed by the borough assessor. *Maxson v. Segoine*, 24 Vr. 339. *Morrill v. Simpkins*, 24 Vr. 583.

Proviso.

be called by the mayor and council for that purpose; *provided*, in case the said resolution be submitted at the annual election, such resolution and said underwriting or printing may be written or printed on the ballots used at such election, but if at a special election, then the ballots shall contain only such resolution and underwriting or printing.

Notice of special election.

**115. SEC. 13.** That the mayor and council shall cause the clerk of the borough to give at least twenty days' notice of any such special election, specifying the time, place and object of such election, which notice shall be given in same manner as notice of the annual election is given; and the result of such election shall be certified in same way and manner as the result of the annual election.

Result certified.

When bonds may be issued.

**116. SEC. 14.** That in case a majority of the votes cast shall be in favor of the issuing of such bonds, the mayor and council shall issue such bonds and use the same or the proceeds thereof for the purposes expressed in the resolution; *provided, however*, that no bonds shall be sold or otherwise disposed of under par; *and further provided, however*, that the amount of bonds and improvement certificates of every name issued shall never exceed, in the aggregate, ten per centum of the assessed valuation of real and personal property within the borough.

Borough to pay its proportion of state and county taxes.

**117. SEC. 15.** That there shall be apportioned to the borough by the proper officers its just proportion of the state and county taxes to be raised therein, and the same shall be paid to the county collector by the borough collector under warrant of the mayor and council.

When taxes payable, and how collected when in arrear.

**118. SEC. 16.** That all taxes shall be and become payable on the twentieth day of December, in each year, and that in case any taxes so assessed or levied upon or on account of any real estate, shall be and remain unpaid or in arrear for the space of six months after the said twentieth day of December, then and in that case it shall be the duty of the mayor and council to proceed to collect the same by issuing their warrant to the borough collector for the sale of the lands or real estate on account of which such taxes were so levied and assessed, in the same manner and to the same effect, in all things, as provided in and by an act entitled "A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine, and the several supplements thereto.

When discount allowed.

**119. SEC. 17.** That any person or persons paying his, her or their taxes after the tax duplicate shall have been delivered to the collector of taxes and prior to the twentieth day of December in the year when same becomes due and payable, shall be allowed a discount at and after the rate of six per centum per annum from date of such payment to the aforesaid twentieth day of December.

Repealer.

**120. SEC. 18.** That all acts and parts of acts, both general and special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

Approved April 23, 1888.

P. L. 1888, p. 476.

When governing body to adopt corporate name for borough by certificate.

**121. SEC. 1.** That whenever the petition, notice or certificate mentioned in the second and third sections of the aforesaid act, is or shall be informal or defective by reason of any mistake or omission in or of any portion of the corporate name of any borough, formed or intended to be formed by virtue of the provisions of the aforesaid act, the governing body elected for any such borough shall and may, by certificate in writing, under their hands, adopt such corporate name for said borough as they, in their discretion, may deem appropriate under the provisions of the said act.

Certificate filed and recorded.

**122. SEC. 2.** That the genuineness of the signatures of the officers of said governing body to said certificate shall be proven by the affidavit of one or more witnesses indorsed thereon, and the certificate so proven shall be filed and recorded in the office of the clerk of the county in which such borough is or may be situated, and upon such filing and recording of such

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certificate, the inhabitants of said borough shall, from the time of the filing of the certificate referred to in section three in the aforesaid act, be a body corporate in fact and in law, under and by the corporate name or title specified and adopted in said certificate filed and recorded under the provisions of this supplement, and by that corporate name shall have all the rights and privileges and be subject to all the restrictions contained in the act to which this is a supplement.

## Supplement.

Approved April 24, 1888. P. L. 1888, p. 525.

Preamble.

WHEREAS, Boroughs incorporated under the provisions of the above-entitled act and the supplements thereto, caused notice to be given of an election to be held on the thirteenth day of March, one thousand eight hundred and eighty-eight, for the election of a borough assessor, collector, three commissioners of appeal, a judge and two inspectors of election, in anticipation of the passage of a law entitled "A further supplement to 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," which supplement was approved March sixth, one thousand eight hundred and eighty-eight, at which said election, held on the thirteenth day of March, one thousand eight hundred and eighty-eight, the said officers above mentioned were elected by the various boroughs throughout this state; *and whereas*, by the provisions of the above-entitled act, the borough clerk is required to give ten days' notice of elections to be held under said act for the election of borough officers; *and whereas*, the said supplement, entitled "A supplement to 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," was not approved in time to admit of the giving of the ten days' notice of the election of the officers mentioned in the said last-entitled act, and by reason thereof doubts have arisen concerning the legality of the election of the officers above mentioned; therefore,

**123.** SEC. 1. That the election of the borough assessor, collector, three commissioners of appeal, a judge and two inspectors of election, held on the thirteenth day of March, one thousand eight hundred and eighty-eight, under the provisions of the above-recited act, by any borough in this state, shall be as valid and effectual in law, to all intents and purposes, as if the said act of the legislature had been approved and taken effect before the time fixed by law for giving notice of said borough election, and that all acts of the said various officers done and performed or to be hereafter done or performed under and by virtue of the provisions of the said supplement, shall be held and declared to be valid and effectual in law. (a)

Election valid.

## Supplement.

Approved April 24, 1888. P. L. 1888, p. 530.

**124.** SEC. 1. That section two [see Sec. 24, *ante*] of the supplement to the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, which said supplement was approved March fifteenth, one thousand eight hundred and eighty-one, be and the same is hereby amended so as to read as follows:

[That it shall and may be lawful for the council of every borough organized and formed under the act to which this is a supplement, to order and cause to be assessed and raised by tax every year, such sum or sums of money, not exceeding fifteen hundred dollars in any one year, as they shall deem expedient for the current expenses of such borough, which sum so designated being certified to by the mayor and clerk shall be assessed and collected the same as provided for and directed in the act to which this is a supplement; *provided*, that such mayor and common council shall have power to exempt from municipal taxation, either in

Lawful for borough council to cause money for current expenses to be raised annually by taxation.

Proviso.

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(a) See *Wainwright v. Craig*, 22 Vr. 466, as to effect of this act upon the supplements of March 6th, 1888, and March 23d, 1888, being sections 93 to 101, and sections 103 to 120, *ante*.

whole or in part, for a period not exceeding five years, the property of manufacturing corporations, companies and individual enterprises, employing labor within the limits of any such borough, and manufacturing therein, for the purpose of inducing such manufacturing corporation, company or individual enterprise aforesaid to locate in such borough.]

## Supplement.

Approved May 7, 1889.

P. L. 1889, p. 381.

Borough collector to make and deliver list of delinquent taxpayers to justice of the peace.

**125. SEC. 1.** That in case of non-payment of taxes at the time appointed by law, the borough collector shall make out a list of the names of the delinquents, with the sums due from them respectively thereto annexed, and deliver them to some justice of the peace of the county on the twentieth day of December in every year, except when the said day shall happen on a Sunday, and then on the next day following.

Justice to receive list, give receipt and issue warrant.

**126. SEC. 2.** That it shall be the duty of said justice of the peace on receiving a list of the names of such delinquents, to administer an oath to said collector that the moneys in said list mentioned have been duly demanded, or due notice thereof given or left at the usual place of residence of each delinquent who can be found, or who may reside in said borough, and thereupon give the said collector a receipt of such list, certifying therein the names of the delinquents, and the sums at which they are respectively assessed; and it shall also be the duty of said justice of the peace to make out and deliver to the collector of such borough a warrant or warrants at the time, and as provided by law, in case of return of a list of delinquent taxpayers by the township collector to a justice of the peace, and to deliver the same to the said justice of the peace.

Repealer.

**127. SEC. 3.** That all acts and parts of acts inconsistent with this act are hereby repealed.

## Supplement.

Approved March 5, 1890.

P. L. 1890, p. 45.

Authorized to construct and maintain plants, &c., for lighting streets.

**128. SEC. 1.** That the mayor and council shall have power and authority to construct, erect and maintain plants, works and machinery, or purchase plants, works and machinery already constructed, for lighting the streets, roads, avenues and public places within the borough by electricity or otherwise, and may issue bonds for the payment of the cost of such construction or purchase in the manner and according to the provisions of sections twelve, thirteen and fourteen of an act entitled "A further supplement to an act entitled 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," which supplement was approved March twenty-third, one thousand eight hundred and eighty-eight. [See Secs. 114, 115 and 116, *ante*.]

May supply persons and corporations with light.

**129. SEC. 2.** That it shall be lawful for the mayor and council to supply persons or corporations either within or without the corporate limits, with lights, and to receive and apply for the benefit of the borough such sum or sums of money as may be received therefrom.

Repealer.

**130. SEC. 3.** That this act shall take effect immediately, and that all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

## Supplement.

Approved June 9, 1890.

P. L. 1890, p. 416.

Borough formed out of a police district to become vested with property of police district.

**131. SEC. 1.** That whenever the inhabitants of any police district in this state shall have heretofore become a body corporate in fact and in law, in the manner provided by the act to which this is a supplement, and such corporation shall embrace the whole of such police district, that the mayor and common council of such borough so incorporated as aforesaid, shall, by virtue of this act, become and be absolutely and completely vested with, possess, enjoy and control all the lands, tenements, hereditaments, property, rights, causes of action and estates whatsoever, both in law and in equity, in possession, reversion or remainder, which at the time of such

incorporation as aforesaid were vested in or belonged to any such police district as aforesaid, according to such estate and interest, as any police district at the time of the formation of such borough had or might have, or of right ought to have in the same.

**132. SEC. 2.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed. Repealer.

#### Supplement.

Approved March 9, 1891. P. L. 1891, p. 109.

**133. SEC. 1.** That the legal voters of boroughs incorporated under the act to which this is a further supplement, shall annually by votes, upon the same ballot used in voting for mayor and councilmen, designate an amount of money to be raised by taxation upon the real and personal property within the borough for the current expenses of such borough; and the sum of money receiving the greatest number of votes at such election shall be the sum of money to be raised for the aforesaid purposes within said borough, and the result shall be certified upon the returns of said election; and the sum of money so voted shall be assessed and collected at the same time and in the same manner as other borough taxes have been heretofore assessed and collected, under the name of the "general borough tax;" *provided, however,* that in case the legal voters aforesaid fail to so designate the amount so to be raised as "general borough tax," by reason of a tie vote or otherwise, then it shall be lawful for the mayor and council at any regular meeting to fix such general borough tax at a sum not exceeding three thousand dollars.

Legal voters to determine annually upon the same ballot used in voting for mayor and councilmen, the amount of money to be raised each year for borough purposes.

Borough tax, how assessed and collected.

Proviso.

#### Supplement.

Approved April 14, 1891. P. L. 1891, p. 365.

**134. SEC. 1.** That any borough incorporated under the provisions of the act to which this is a supplement, may extend its corporate boundaries in the following manner: upon a petition being presented to the borough council of such borough, setting forth the boundaries of the land so to be included within the limits of such borough, and signed by persons owning at least nine-tenths of the land described in said petition, and petitioning the borough council to extend the limits of said borough so as to include said land, the borough council may pass an ordinance enacting and ordaining that the boundaries of the borough shall be extended so that the land described in said petition may be included therein, which said ordinance shall set forth specifically the boundaries of the land so to be added to said borough.

Boroughs authorized to extend their limits.

Borough council to pass an ordinance to extend boundaries.

**135. SEC. 2.** That whenever any borough incorporated as aforesaid shall now be or become possessed of any land lying adjacent to said borough territory by grant, purchase or devise, the borough council may pass an ordinance enacting and ordaining that the boundaries of said borough may be extended so that the land so acquired shall be and become a part of such borough, which ordinance shall fully set forth the boundaries of the land so to be added thereto.

To pass ordinance establishing boundaries after becoming possessed of adjacent land.

**136. SEC. 3.** That after any such said ordinance shall have been passed, approved by the mayor of said borough, and advertised according to law, a copy of the same shall be forthwith transmitted by the borough clerk of such borough to the county clerk of the county in which such borough is situated, and also a copy of the same transmitted to the secretary of state, and upon said copies of said ordinance being filed in said offices of said county clerk and secretary of state, the land so set forth in said petition and ordinance shall form a part of said borough and become subject to all the laws and ordinances regulating and governing the same; *provided, however,* that nothing herein shall be construed to authorize any borough to include within or annex to its territorial limits any part or portion of any other city, town or borough.

Ordinances to be filed in offices of county clerk and secretary of state.

Proviso.

## BOROUGHES.

## Supplement.

P. L. 1892, p. 235.

Repealer.

Borough not invalidated when found to contain more area than allowed by act.

Proviso.

Who not liable to assessments or taxes for borough purposes.

Repealer.

Approved March 24, 1892.

**137. SEC. 1.** That the act entitled "A further supplement to an act entitled 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," approved March the eighth, one thousand eight hundred and eighty-eight [see Sec. 102, *ante*], be and the same is hereby repealed.

**138. SEC. 2.** That any borough incorporated under the act to which this is a supplement which shall contain within its corporate limits more area than is allowed by said act, shall not in consequence of this act become invalid; *provided*, that the mayor and council of any such borough shall, within thirty days from the passage of this act, file or cause to be filed in the clerk's office of the proper county an amended description of the boundary lines of such borough, limiting the area embraced within such description to one township and to four square miles, as required by the act to which this is a supplement.

**139. SEC. 3.** That neither the person nor the property of the inhabitants heretofore included within any such borough limits, but not included within the amended description, shall be liable for any charges or assessment of taxes for borough purposes.

**140. SEC. 4.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

P. L. 1892, p. 377.

Exclusive power of laying out roads and streets vested in mayor and common council.

Approved March 30, 1892.

**141. SEC. 1.** That in all boroughs incorporated under this act and the several supplements thereto, the exclusive power of laying out roads and streets within the borough limits in the manner prescribed by the act to which this is a supplement and the supplements thereto, shall be vested in the mayor and common council of every such borough, and if in making the assessment to pay for the costs, expenses and damages incurred in the laying out of such road, as required by the act to which this is a supplement and the supplements thereto, it shall appear that the costs, expenses and damages exceed the amount assessed against the lands benefited, such excess shall be assessed against the inhabitants of said boroughs in their corporate capacity, and it shall be the duty of the mayor and common council of all such boroughs to cause all such sums as shall be necessary to pay the same, to be assessed and collected in the same manner that all other moneys for borough purposes shall be assessed and collected.

## Supplement.

P. L. 1892, p. 471.

Assessor to be elected in same manner as collectors of taxes.

Repealer.

Approved April 9, 1892.

**142. SEC. 1.** That hereafter the assessor of taxes in and for boroughs of the first class shall be elected in the same manner as collectors of taxes in said boroughs and shall not be appointed by the mayor and common council of said boroughs.

**143. SEC. 2.** That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

P. L. 1893, p. 101.

Preamble.

Approved March 7, 1893.

WHEREAS, Doubts have arisen whether the legal voters, residents of boroughs formed under and by virtue of the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and the several supplements thereto, are entitled to vote in the township out of which or from which the several boroughs were formed, or in the borough of which they are residents; now, therefore,

**144. SEC. 1.** That the legal voters of all boroughs existing within any of the townships of this state and incorporated under the provisions of the act of which this is a supplement, shall hereafter in all elections vote within their several boroughs.

Legal voters shall vote within their boroughs.

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**145. SEC. 2.** That at the annual elections for borough officers, which are held on the same day that the town meetings are held in the various townships of this state, the legal voters of said boroughs shall not only be entitled to vote for such officers or appropriations as are authorized by the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and the several supplements thereto, but shall also be entitled to vote for a chosen freeholder for any township in which such borough is situated and of which it forms a part.

Voters of boroughs entitled to vote for chosen freeholder.

**146. SEC. 3.** That the several county boards of registration shall appoint boards of registry and election and registry or poll clerks for the said boroughs of their respective counties, and that all elections held within the said boroughs shall be conducted under the provisions of the act entitled "An act to regulate elections," approved April eighteenth, one thousand eight hundred and seventy-six, and the several supplements thereto and amendments thereof.

County boards of registration appoint boards of registry and election for said boroughs.

**147. SEC. 4.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Repealer.

**Supplement.**

Approved March 11, 1893.

P. L. 1893, p. 227.

**148. SEC. 1.** That it shall be lawful for any borough in this state organized under the provisions of the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and the several supplements thereto, and that has heretofore or shall hereafter issue its municipal bonds, creating a debt or obligation of such borough, to fall due at a future time, under or by virtue of the provisions of any law of this state authorizing the issuing of such bonds and the creation of such debt or obligation, by a resolution of the mayor and council of such borough to that effect duly passed and adopted, to provide for the creation and establishment of a sinking fund for the payment and cancellation of such bonds at their maturity, in the manner hereinafter provided.

Sinking fund created for payment of municipal bonds, upon adoption of a resolution of mayor and council.

**149. SEC. 2.** That it shall be lawful for the mayor and council of any such borough, after having passed and adopted a resolution to create and establish a sinking fund for the purpose specified in the first section of this act, to appoint three suitable persons, residents and freeholders within such borough, as commissioners to receive, take charge of, invest and pay over such sinking fund in the manner hereinafter provided; which commissioners, when so appointed, shall be officially designated as commissioners of the sinking fund of the borough of (inserting the name of the borough), and of the three commissioners so to be appointed in the first instance, one shall be appointed to hold office for one year, one for two years and one for three years from the date of their appointment, and one such commissioner shall be appointed annually thereafter, to hold his office for the term of three years and to take the place of the commissioner whose term then expires, any vacancy to be filled by appointment for the unexpired term only; and such commissioners, before entering upon the discharge of the duties of their appointment, shall severally enter into a bond to such borough, in such amount as the mayor and council of such borough shall, by resolution, fix and require, and with sureties to be approved by such mayor and council conditioned for the honest and faithful discharge of the duties of his office as commissioner of the sinking fund of such borough, which bond shall be renewed annually and shall be filed with the borough clerk.

Commissioners to be appointed.

Designated as commissioners of the sinking fund.

Term of office.

Appointment at expiration of term.

Vacancy.

Bond.

**150. SEC. 3.** That such commissioners of the sinking fund when duly appointed and qualified shall be the lawful custodians of all such moneys

Duties of commissioners of sinking fund.

as shall be levied and raised in such borough for the purpose of paying off and retiring the bonded indebtedness of such borough for which such sinking fund is to be raised, and it shall be the duty of such commissioners to loan and invest such funds and the interest accruing thereon from time to time, and keep the same loaned and invested at interest, upon such securities as the school fund of this state may be lawfully loaned and invested upon, but in the corporate name of such borough, and to pay the principal of such fund into the borough treasury when thereto required by resolution of the mayor and council of such borough for the purpose of paying off and retiring such bonded indebtedness of such borough; and it shall be the duty of such commissioners annually on the fifteenth day of February, and at such other time or times as they may be required so to do by resolution of the mayor and council, to furnish and report to the mayor and council of such borough a detailed statement of the condition of such sinking fund in their hands and showing all receipts, disbursements and investments on that account by them during the twelve months next preceding such accounting and giving a description of such securities as may be in their hands for such funds as they may have loaned or invested; and all expenses necessarily and properly incurred by such commissioners in the discharge of their duties shall be a legitimate debt of such borough and be payable out of the sinking fund.

Make annual statement of such sinking fund.

Expenses a legitimate debt.

Money required to create sinking fund to be raised by taxation.

**151. SEC. 4.** That it shall be lawful to raise annually in such borough by taxes levied, assessed and collected in the same manner as other taxes may be levied, assessed and collected in such borough, such sum in addition to the other moneys that may be lawfully raised in boroughs for general borough expenses as the mayor and council of such borough may, by resolution, determine to be necessary and proper to raise for the purpose of creating such sinking fund, which sum when collected by the borough collector shall be by him paid over to the commissioners of the sinking fund annually.

#### Supplement.

Approved March 14, 1893.

**152. SEC. 1.** That it shall be lawful for any borough organized under the act to which this is a supplement, to order and cause, by contract or otherwise, sewers and drains to be constructed in any part of such borough, and to provide, maintain and alter a general system of sewerage and drainage for such borough, or any part thereof, conformably to which all sewers and drains shall be constructed, and to establish and maintain one or more outlets or places of deposit, within or without such borough, for sewerage and drainage from such borough, and to repair and cleanse such sewers and drains.

**153. SEC. 2.** That whenever a petition in writing of any owners of property interested, not less than ten, shall be presented to the mayor and council of such borough, asking for the construction of a sewer or drain in the whole or any particular section of such borough, it shall be lawful for such mayor or council to adopt a resolution declaring its intention to cause such sewers or drains to be constructed; and the said council shall forthwith cause public notice of such intention to be given by its mayor in two or more newspapers printed or circulating in such borough, for the space of ten days, briefly describing the proposed work, and the section or part of such borough to be affected, and requesting such persons as may object thereto to present their objections in writing at or before the expiration of ten days from date of such notice, to the officers signing the same; and if persons owning or representing more than one-half of the whole lineal frontage of land along the streets through which it is proposed to construct any sewer or drain, shall so present their objections in writing, then such proceedings shall cease, but not otherwise; and after the expiration of said ten days, it shall be lawful for such mayor and council to adopt an ordinance for the construction of such sewers or drains, to award contracts for the same, or for any part or section thereof, and to take all necessary steps for properly carrying into effect the desired improvement.

P. L. 1893, p. 271.

Authorized to provide, &c., system of sewerage, establish outlets or places of deposit, &c.

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32V-21

Proceedings for construction.

Notice to be published.

When proceedings shall cease.

**154. SEC. 3.** That if, in the judgment of the said mayor and council, the construction of such sewer or drain is likely to benefit and increase the value of lands and any real estate in the vicinity thereof, the said council shall apply to the judge of the circuit court of the county wherein such borough is situate, for the appointment of commissioners to estimate and assess such benefits, of the time and place of which application notice shall be given by ten days' publication in two newspapers printed within the county and circulating within such borough, at which time and place, or at such other time and place as the said judge shall designate, said judge shall, without unnecessary delay, appoint three commissioners, who shall be freeholders of such borough making the application, to estimate and assess the said benefits; the said judge shall have power to remove any commissioner and appoint another in his place, and also to fill any vacancy that may occur in the office of any commissioner from any cause; the said commissioners before entering upon the execution of the duties required of them by this act, shall take and subscribe, before some person duly authorized to administer the same, an oath or affirmation that they will make all estimates and assessments required of them fairly, legally and equitably, according to the best of their skill and understanding, which oath or affirmation shall be attached to the report that they are hereinafter required to make.

Appointment of commissioners.

Notice to be given.

Removal of commissioners.

Oath of commissioners.

**155. SEC. 4.** That the said commissioners, having thus qualified, shall give notice, under the direction of the said judge, of the time and place when and where they will hear any persons in interest who may present themselves to be heard, and at such time and place, and at such other times and places to which they may adjourn for that purpose, the said commissioners shall attend, and shall give a public hearing to those persons in interest who may desire to be heard; the said commissioners shall have power to examine witnesses under oath, to be administered by any one of them, and to enter upon and view any premises that they may deem necessary, and to adjourn from time to time in their discretion, or as directed by the judge of said court; they shall use diligent effort to ascertain the names of the owners of the lands and real estate benefited by the construction of such sewer or drain as aforesaid, and shall state the same in the report hereinafter mentioned, but the failure to ascertain the name of any such owner or to state the same correctly, or the omission of any such name from the said report, shall not be deemed to invalidate the said assessment, nor to be a bar to the collection of the same.

Notice of meeting.

Power to examine witnesses.

To ascertain name of owners.

Failure to ascertain not to invalidate assessment.

**156. SEC. 5.** That after having given opportunity as aforesaid for a public hearing of the persons in interest, and having viewed the premises likely, in their judgment, to be benefited by the construction of such sewer or drain, the said commissioners shall make a report in writing of their estimates and assessments to the judge of said court, accompanied by a survey and map to be prepared under their direction by a civil engineer, to be appointed by the mayor and council of such borough, showing the lots or parcels of land and real estate peculiarly benefited by such sewer or drain; the said report shall state the cost of the whole work, including in such cost all necessary expenditure for engineers, plans, salaries, legal fees and charges, and such other incidental expenses as in the proper prosecution of the work may be necessarily incurred, the portion, if any, assessed upon the borough at large, and shall give the names, so far as ascertained, of the owners of said lots or parcels of land and real estate, and the amount of the assessment to each owner for each of such lots or parcels of land and real estate for the said benefits; which assessment shall, in each case, be in proportion, as near as may be, to the advantage which each of such owners shall be deemed to have acquired by the construction of such sewer or drain; in case the costs and expenses of such work shall exceed the amount of benefits, the expense thereof shall be paid by the borough at large, and raised by general tax; in no case shall any property or owner thereof to be assessed beyond the amount of benefit actually derived from the construction of such sewer or drain.

Report of assessments to be made.

Objections to assessments.

**157. SEC. 6.** That upon the coming in of any such report, signed by the said commissioners, or any two of them, the judge of said court shall cause such notice to be given as it shall deem proper of the time and place of hearing any objections that may be made to such assessment, and after hearing any matter that may be alleged against the same, the judge of said court, either by rule or order, shall confirm the said report, or shall refer the same to the same commissioners for revision and correction, or to new commissioners to be appointed by him, forthwith to reconsider the subject-matter thereof; and the said commissioners to whom such report shall be referred by the court shall return the same, 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 being so returned, shall be confirmed, or again referred by the judge of said court in the manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned in the premises which the said court shall confirm; such report, when so confirmed, shall be final and conclusive, as well upon the said borough as upon the owners of any lands and real estate affected thereby; the said court shall thereupon cause a certified copy of such report, and the accompanying map, to be filed in the office of the clerk of the county in which said borough shall be located, and said clerk shall transmit a certified copy of the report, and rule or order of said court confirming the same, and also a certified copy of the map accompanying the same, to the treasurer of such borough.

Report to be final and conclusive.

And filed with the clerk.

Limit of time for allowing certiorari.

**158. SEC. 7.** That no certiorari shall be allowed by any court to review any of the proceedings in relation to such improvement, nor to in any way affect any assessments made by such commissioners, after the lapse of thirty days from the making of the order of the court confirming such assessments; the court shall designate what notice, if any, shall be given, by publication or otherwise, of the confirmation of the report of said commissioners.

Assessment a first lien.

**159. SEC. 8.** That all assessments made under the provisions of this act shall be and remain a first lien upon the lands and real estate affected thereby, notwithstanding any error or omission in stating the name or names of the owner or owners of such lands and real estate, to the same extent as taxes and assessments are now a lien under the general laws of this state, and shall bear interest at the rate of six per centum per annum.

May issue improvement certificates.

**160. SEC. 9.** That the mayor and council may pay the expenses of any such improvement by the issue of temporary improvement certificates from time to time as the work progresses, in such form as the council may prescribe; said certificates shall bear interest at a rate not exceeding six per centum per annum, to be fixed by the council, and shall be payable at the expiration of not more than three years from the date of their issue.

When payable.

Amount required put in annual tax levy.

**161. SEC. 10.** That it shall be the duty of the mayor and council of any such borough to incorporate in the annual tax levy, in each year, such amount as shall be required to be paid by such borough at large, or on account of any such improvement made, in the next preceding fiscal year, over and above the total amount of the assessment made against the lands and real estate peculiarly benefited; and the same shall be raised by general taxes, and the moneys received for assessments, and the moneys so raised by the general tax for the purpose aforesaid, shall be raised for and exclusively applied to the payment for such improvement, or to the payment of any temporary indebtedness incurred by the said borough therefor, or for any bonds or certificates that may be issued as in this act provided.

Election may be had to determine whether bonds shall be issued.

**162. SEC. 11.** That the mayor and council of such borough shall order an election to determine whether bonds shall be issued to procure money for the payment of the costs and expenses of the proposed improvement, and shall designate the time and place for holding the same, and appoint judges and inspectors thereof; the polls shall be open from ten o'clock in the forenoon until three o'clock in the afternoon, and every person who is now authorized to vote at the corporate election in such borough, may vote at such election; on the tickets voted at such election shall be printed or

written "for the issue of bonds," or "against the issue of bonds," and the judge and inspectors shall certify the result of said election to the clerk of the county in which borough is situated.

**163. SEC. 12.** That if there shall be a majority of votes cast in favor of the issue of bonds it shall then be lawful for the mayor and council of such borough to issue registered or coupon bonds of said borough, such issue being hereby expressly authorized for the purpose of providing funds to pay for such improvements; the bonds may be made payable at times to be therein specified, not more than twenty years after date, but so that an equal amount shall fall due each year after the first, the rate of interest not to exceed six per centum, and the denominations to be fixed by the mayor and council issuing the same; the bonds shall be of two classes, namely, "assessment bonds," which shall be paid out of the assessments for benefits, made by the commissioners appointed for that purpose, against lands benefited, and "sewer bonds," which shall represent the cost of the improvement above the amount assessed for benefits.

When bonds may be issued.

**164. SEC. 13.** That any landowner whose lands may be subject to an assessment for benefits derived from the construction of such sewer may have his lands released at any time by paying to the treasurer of the borough the full amount assessed against his property with interest at six per centum; it shall be the duty of the county clerk to file in his office the receipt of the treasurer for any such payment and also to enter upon the assessment list and map a short memorandum showing that the assessment against such landowners and lands has been paid, and thereafter such lands shall be free from the lien of such assessment and shall not be liable to any assessment or tax to raise money to provide for the payment of assessments against any other property or the bonds mentioned in this act as "assessment bonds," but shall remain liable for any tax that shall be levied to provide for the payment of that part of the costs which is charged to the borough at large, or for the payment of any certificates or bonds issued therefor.

How lands may be released from assessment.

Duty of county clerk.

**165. SEC. 14.** That if a majority shall at such election vote against the issue of bonds, then the said mayor and council shall have power to issue certificates to pay for the cost of such work; such certificates shall bind the land assessed for benefits, and be a lien upon the same to the extent that each lot or parcel may be assessed as hereinbefore provided; and the same shall be a paramount lien upon said lands respectively, until the amounts due from each of the respective owners shall be paid, and the record of the assessment canceled as herein provided; in issuing such certificates the mayor and council may also include the amount of any damages assessed against the borough at large, but such certificates shall be distinguished from those issued to represent the amount assessed for benefits; and the whole issue of certificates shall be divided into three classes, one-third to mature in one year, one-third in two years and one-third in three years; and to provide for their payment it shall be the duty of the borough assessor to assess and levy the tax for the same in the manner herein provided for the payment of bonds, certificates or other indebtedness incurred for such improvement.

Certificates issued if majority vote against issue of bonds.

Certificates divided into classes.

Assessors levy tax for payment.

**166. SEC. 15.** That there shall be paid to each commissioner of assessment three dollars for every day he shall be actually engaged in the performance of the duties herein required of him; and they shall also have authority to employ a secretary at a cost of not over two dollars for each day he may be employed.

Compensation.

May employ a secretary.

**167. SEC. 16.** That the mayor and council of any borough in this state shall by resolution submit the question of the acceptance or rejection of this act to the vote of any such borough at a special election to be held for that purpose, whereof at least ten days' previous notice shall be given by public advertisement in at least two of the newspapers published and circulated in said borough if there be so many; the resolution shall fix the time and place for holding such election, and the said mayor and council shall appoint inspectors of the election, who shall hold the same as provided by said resolution, and return the result thereof to the said council;

Special election may be held upon acceptance or rejection of this act.

## BOROUGHES.

each ballot deposited by those who favor the acceptance of this act shall contain the words "the sewer accepted," written or printed thereon, and those opposed shall each deposit a ballot with the words "the sewer act rejected" written or printed thereon, and if a majority of the ballots so cast shall be found to be for the acceptance of this act, it shall then (but not otherwise) go into effect and be binding upon said borough; those persons who are qualified to vote at the annual municipal borough election for the election of the officers of any such borough shall be qualified to vote at the election provided for in this section.

Authority of boroughs accepting this act.

**168. SEC. 17.** That any borough accepting the provisions of this act is authorized to raise such additional amount of money each year as may be necessary to carry out the provisions of this act, over and above what they are now allowed by law.

Repealer.

**169. SEC. 18.** That all acts, general and special, so far as they conflict herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

Approved March 27, 1893.

P. L. 1893, p. 460.

208-170  
A96-341

Lawful for mayor and council, by ordinance, to order and cause to be constructed sewers or drains, &c.

**170. SEC. 1.** That it shall be lawful, by ordinance, without other formality except as hereinafter required, for the mayor and council of any borough that now is or may hereafter be incorporated under the act to which this is a supplement, to order and cause to be constructed sewers or drains in any part of said borough; and to provide and maintain a general system of sewerage or drainage, with all the appurtenances thereof, for such borough, or any part thereof, conformably to which all sewers and drains shall be constructed; and to establish and maintain one or more main or outlet drains or sewers and outlets or places of deposit, within or without such borough, for sewerage or drainage; and to provide for the disposal of sewerage and drainage from such borough; and to repair and cleanse and maintain such sewers and drains; and when it shall be necessary to locate any of such sewers or drains, or any part of such system, upon any land other than public highways or streets, any such land, or any easement, right or real estate therein may be lawfully acquired by such borough; and the proceedings therefor and for the award and payment of damage therefor, shall conform to the proceedings now provided or that may hereafter be provided by law for acquiring land for opening streets in such borough; *provided*, that it shall be lawful to take any such lands without first making compensation therefor; and in case it shall be necessary to cross any lands of the state in the construction of said sewer for the purpose of obtaining an outlet, it shall be lawful to take and use such lands for the purpose.

Proceedings for acquiring land.

Proviso.

Proceedings when owners of property petition mayor and council to construct outlet or lateral sewer.

**171. SEC. 2.** That whenever a petition in writing of any owners of property interested shall be presented to the mayor and council of the borough, asking for the construction of a main outlet or lateral sewer or drain in any particular section of said borough, it shall be lawful for said mayor and council by resolution to declare its intention to cause such main outlet or lateral sewer or drain to be constructed; and the said mayor and council shall forthwith cause said resolution to be published by the borough clerk in two or more newspapers printed or circulated in said borough for the space of two weeks, together with a notice requesting such persons as may object thereto to present their objections in writing, at or before the expiration of two weeks from the date of such notice, to the officer signing the same; and if persons owning and representing more than one-half of the lineal frontage of land along all the streets through which it is proposed to construct any such sewer or drain shall so present their objections in writing, then such proceedings shall cease, unless the local or state board of health shall certify that such main outlet or lateral sewer or drain is necessary for sanitary purposes; but otherwise, and after the expiration of said two weeks, said board, the mayor and council may, by ordinance, order the construction of such main outlet or lateral sewer or drain, and by resolution award contracts for the same or any part or section thereof, and may

take all other necessary steps for properly carrying into effect the proposed work by resolution.

**172. SEC. 3.** That upon the completion of any such main outlet or lateral drain or sewer, the mayor and council shall apply to the circuit court of the county wherein such borough is situated to appoint commissioners to estimate and assess the special benefits derived therefrom by any lands or real estate in the vicinity thereof; of the time and place of such application notice shall be given by two weeks' publication in two newspapers printed and circulated in said borough, at which time and place or at such other time and place as the court shall designate, said court shall without unnecessary delay appoint three commissioners, who shall be freeholders and residents of such borough, to estimate and assess said benefits; and the said court shall have power to remove any commissioner and appoint another in his place and also to fill any vacancy that may occur from any cause.

Commissioners appointed to estimate and assess special benefits.

Notice to be given.

Vacancy, how filled.

**173. SEC. 4.** That the commissioners so appointed, before entering upon the execution of the duties required of them by this act, shall take and subscribe an oath or affirmation that they will make said estimates and assessments honestly according to law and the best of their ability, which oath or affirmation shall be attached to the report that they are hereinafter required to make.

Take and subscribe an oath.

**174. SEC. 5.** That having thus qualified said commissioners shall give the notice directed by the court of the time and place where the persons interested may present themselves and present such objections as they may have to the said assessment; the hearing before the said commissioners shall be a public one, and may be adjourned from time to time as they may deem necessary, or as may be directed by the court; the said commissioners shall have power to examine witnesses under oath, which may be administered by any one of them, and they may also in their discretion view the premises affected by the said assessment; they shall use diligent effort to ascertain the names of the owners of the lands and real estate benefited by the construction of such main outlet or lateral sewer or drain, and shall state the same in their report; but failure to ascertain such names, or to state the same correctly or the omission of any owner's name, shall not invalidate the assessment by them made nor bar the collection thereof; and the said commissioners shall cause to be made a map showing the location of said main outlet or lateral sewer or drain, and the lots of land and real estate especially benefited by the construction of the same, and they shall annex said map to their report.

Give notice of time and place of meeting.

Have power to examine witnesses.

Assessment not invalidated by failure to ascertain owner's name.

Map to be annexed to their report.

**175. SEC. 6.** That as soon after their appointment as may be, reference being had to all the requirements of this act in the premises, the said commissioners shall conclude their estimate and assessment, and report the same in writing, signed by them or any two of them, to the said court; the said report shall state the cost of the whole work, the portion, if any, assessed upon the borough at large, and shall give the names, as far as ascertained, of the owners of said lots of land and real estate and the amount assessed to each owner for each lot of land and real estate, and shall be accompanied by such other documents as are required by this act; the estimate of benefits and the assessment thereof shall in each case be in proportion to the advantage acquired by the construction of such main outlet or lateral sewer or drain, and in no case shall any owner or property be assessed beyond the amount of benefit actually derived; in determining the cost and expense of said work the said commissioners shall include all expenses lawfully incurred in making the estimate, assessment and report, as well as the cost of the actual construction of said work, and in case the cost and expense as found exceed the amount of benefits assessed, the difference shall be assessed against the borough at large, to be raised and paid as hereinafter provided.

Report their estimate, &c., to court.

What report shall contain.

What shall be included in costs and expenses.

When difference to be assessed.

**176. SEC. 7.** That upon the coming in of the report the said court shall cause such notice to be given as shall be proper of the time and place of hearing any objections that may be made to such assessment, and after hearing any matter that may be alleged against the same the said court,

Notice to be given of time and place to hear objections to report.

Court shall confirm report or refer same to commissioners.

When confirmed final and conclusive.

By whom assessments collected.

When no certiorari allowed.

Assessments divided in ten installments.

Portion unpaid to be a lien.

When said lands may be sold.

Proviso.

Proviso.

Authorized to issue improvement certificates.

Proviso.

Provisions of this act applicable to sewers authorized to be constructed prior to its passage.

either by rule or order, shall confirm said report or shall refer the same to the same commissioners for revision and correction, or to new commissioners to be appointed forthwith to reconsider the subject-matter thereof; and the said commissioners to whom such report is so referred shall return the same corrected and revised or a new report, if so ordered, to the said court as soon as may be, and the same being so returned shall be confirmed or again referred by the said court in manner aforesaid as right or justice shall require, and so from time to time until a report shall be made and returned in the premises which the said court shall confirm; such report, when so confirmed, shall be final and conclusive as well upon said borough as upon the owners of any lands and real estate affected thereby, and the said court shall thereupon cause a certified copy of such report and the map accompanying the same, together with a certified copy of the rule or order confirming the same, to be forthwith transmitted to the clerk of such borough, who shall forthwith file the same in his office and deliver a transcript of said assessments to the officer of such borough charged with the duty of collecting assessments for improvements.

**177. SEC. 8.** That the court shall direct what notice shall be given of the confirmation of such report, and after such notice has been given as directed in said order no certiorari shall be allowed to review any of the proceedings authorized by this act, nor in any way to affect the assessment made by said commissioners, unless the same shall be applied for within thirty days after the time fixed for notice in the said order.

**178. SEC. 9.** That all assessments made under the provisions of this act shall be divided into ten equal installments, and may be paid at the option of the property-owner within ten years, one installment for each year or sooner if he wishes, and the said assessment, and any portion thereof remaining unpaid, shall be and remain a first lien upon the lands and real estate affected thereby from and after the date of said confirmation of the said report to the same extent as taxes are a lien under the general laws of the state, and they shall be collected in the same way that taxes are collected, and in case of non-payment of such assessment within ninety days after the expiration of the ten years within which the foregoing installments are permitted to be paid, then the said lands and real estate assessed therefor may be sold for the same, or for any balance thereof remaining unpaid of the same, in the same manner provided by such laws for the sale of land for unpaid taxes, and the sale of land for any unpaid balance shall be as effectual in all respects as would be the sale of land for the entire assessment; *provided*, that upon failure to pay any of the said annual installments when the same are due, the whole of said assessment shall become immediately due and payable; *and provided*, that in no case shall the interest on such assessments exceed the legal rate established by law at the time such report is confirmed.

**179. SEC. 10.** That the mayor and council may pay the expense of any such improvement as is authorized by this act by issuing improvement certificates, bearing interest at a rate not exceeding six per centum per annum, and payable not more than five years from the date of their issue; *provided*, that if because of the provisions of section nine of this act it becomes necessary, any of such certificates may be renewed, upon falling due, by the issue of other like certificates.

**180. SEC. 11.** That in case any such main outlet or lateral sewers or drains as are in this act described are now in process of construction in any borough of this state, or have heretofore been constructed and completed, and no assessment of the cost and expense thereof has been heretofore made, or has been heretofore by law authorized to be made, upon the property-owners specially benefited or to be benefited thereby, and such borough has issued its bonds or other evidence of indebtedness whereby it has raised the money with which the cost and expense of said main outlet or lateral sewers or drains has been in whole or in part paid, the provisions of this act shall apply thereto in all respects as if this act had been passed and become a law before the construction thereof had commenced, and the proceedings had and taken therein shall not be invalidated or set aside by

reason of any informality or failure to comply with the requirements of sections one and two of this act, or from any former lack of such lawful authority as is herein conferred on such borough by said sections, but the same shall be deemed and taken as in all respects lawful; *provided*, that no property shall be assessed but for special benefits derived, and that the amount chargeable to the borough at large shall not be assessed, but shall remain a liability as the same now by law is.

**181. SEC. 12.** That the mayor and council of any borough proceeding under this act may by resolution order to be incorporated in the annual tax levy in each year such amount as shall be required to be paid by such borough at large, on account of all assessments for such improvements as in this act are authorized, which have been made in the next preceding fiscal year, over and above the total amount of the assessments made against the land and real estate specially benefited, and the same shall be assessed and raised in the general tax.

Amount required to be raised by taxation.

**182. SEC. 13.** That for the yearly cost and maintenance of such system of drains and sewers as is authorized by this act, and to provide for the payment of all indebtedness that may be incurred by any borough in constructing such system, or any part thereof, whether such indebtedness be funded or unfunded, or be for principal or interest, the mayor and council thereof shall have power, by resolution, to cause to be assessed in the annual tax levy and collected such sum as they in each year shall find necessary.

Cost of construction and of maintenance may be raised by taxation.

**183. SEC. 14.** That all moneys received in payment of the assessments in this act mentioned shall be received and retained by the collector of taxes, and by him set apart absolutely for the payment and redemption, or upon the direction of the mayor and council, for the purchase of all bonds issued, whether under this act or any other act, for the purpose of main outlet or lateral sewer construction, and also for all improvement certificates issued for the payment of work for which said assessments are levied, and for no other purpose whatsoever.

Assessments collected, how applied.

**184. SEC. 15.** That the commissioners mentioned in this act shall be entitled to three dollars for each day's service.

Compensation of commissioners

**185. SEC. 16.** That nothing in this act contained shall be deemed to authorize any borough in this state at any time to increase its total indebtedness on its bonds and improvement certificates of every kind beyond ten per centum of the assessed valuation of real and personal property within such borough.

Limit to increase of total indebtedness.

#### Supplement.

Approved April 25, 1894.

P. L. 1894, p. 138.

**186. SEC. 1.** That all boroughs of the first class existing within the limits of any of the townships of this state incorporated under the act to which this is a supplement, shall hereafter be entirely separated and independent in all matters of local government from the townships out of which said boroughs have been created, but nothing in this act shall deprive the inhabitants of any of said boroughs of any local option rights which they may now possess by virtue of their township charter. [See Secs. 213 and 265, *post*.]

Boroughs of first class shall be independent of township government.

**187. SEC. 2.** That the legal voters within the said boroughs shall have no right to vote for any officer of the townships out of which said boroughs have been created, nor to vote for any appropriation for any purpose concerning the townships out of which said boroughs have been created.

Voters within borough shall not vote for township officers.

**188. SEC. 3.** That in all boroughs of the first class incorporated under the act to which this is a supplement, the legal voters of said boroughs shall, at each annual election for borough officers, elect justices of the peace, constables, surveyors of the highways, poundkeepers and overseers of the poor for such boroughs, in accordance with the existing statutes regulating the election and term of office of such officers in townships.

Officers that boroughs shall elect.

**189. SEC. 4.** That the mayor of each and every borough of the first class incorporated under the act to which this is a supplement, shall hereafter be elected to serve for the term of three years.

Term of mayor.

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29V-501

Voters may designate on ballots amounts for borough purposes.

Shall be entitled to one member of board of chosen freeholders.

Officers heretofore elected shall serve out their terms.

Repealer.

**190. SEC. 5.** That the legal voters of all boroughs of the first class incorporated under the act to which this is a supplement shall have the right, by vote, to designate annually, upon the ballots used in voting for borough officers, such amounts as may be deemed advisable for any and all legal purposes of a local nature in any way connected with said boroughs.

**191. SEC. 6.** That hereafter all boroughs of the first class incorporated under the act to which this is a supplement shall be entitled to one member of the board of chosen freeholders, to be elected in accordance with the existing statutes now regulating the election and length of terms of members of said board of chosen freeholders.

**192. SEC. 7.** That all township officers elected prior to the passage of this act residing within said boroughs shall hold their offices until the expiration of the terms to which they were elected.

**193. SEC. 8.** That all acts and parts of acts inconsistent herewith be and they are hereby repealed.

#### Supplement.

Approved May 9, 1894.

P. L. 1894, p. 275.

Preamble.

WHEREAS, Doubts have arisen whether the provisions of the above-mentioned act permit the organization of boroughs embracing within their territory parts of more than one township; now, therefore,

Act applicable to formation of boroughs lying in more than one township.

**194. SEC. 1.** That the provisions of the act to which this is a further supplement be and the same are hereby declared to be applicable to the formation of boroughs embracing within their territory parts of more than one township, and that all boroughs heretofore or hereafter formed by virtue of this act, embracing within their territory parts of more than one township, shall be as valid as if the same included part of one township only; *provided*, that the provisions for the formation of such boroughs are otherwise regular and in conformity to said act.

Proviso.

Entitled to vote for borough chosen freeholders only.  
Repealer.

**195. SEC. 2.** [This section repealed by Sec. 209, *post.*]

**196. SEC. 3.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

#### Supplement.

Approved May 16, 1894.

P. L. 1894, p. 379.

Governing body may issue certificates to pay for construction and repair of sidewalks.

**197. SEC. 1.** That it shall be lawful for the mayor and council of boroughs organized under the act to which this is a supplement to issue improvement certificates for the payment of the cost and expense incurred by them for the construction and repair of sidewalks within the borough, such certificates to draw interest not to exceed the legal rate of six per centum per annum, and shall be made payable at such time, not exceeding three years from date of issue, as the mayor and council may determine, and may provide for redemption prior to date fixed for payment thereof.

May fix other period for payment of certificates.

**198. SEC. 2.** That it shall be lawful for the mayor and council to fix a definite period for the payment of any certificates of indebtedness, other than those referred to in the foregoing section, authorized by law to be issued by them, not exceeding five years, and may in their discretion provide that such certificates so issued shall be redeemable after a date therein named, and payable at a more remote period not beyond said five years.

Governing body may grade streets.

**199. SEC. 3.** That in case the mayor and council shall deem it for the public good to cause any unaccepted dedicated street, road or highway to be graded, either in whole or in part, they may, of their own motion and without petition, proceed to grade the same; *provided*, that at least two weeks' notice of the intended work be first given, and fixing a time and place of hearing, by publishing the same twice, before such hearing, in one or more newspapers printed or published or circulated within the borough, and mailing a copy thereof to the owner or owners of lands affected thereby, if their post-office address be known or can be ascertained, and cause a copy of such notice to be posted in the post-office of the borough, at least ten days before the hearing; *provided*, that if the owners of one-half of the lineal feet frontage on the street so to be im-

Proviso.

Proviso.

proved shall object thereto in writing, then the proposed work shall be abandoned and shall not be renewed until a petition be presented as now provided by law for that purpose; if no such written objection be presented, and no cause shall appear to the contrary, then the mayor and council shall proceed with the work in the same manner as though the aforesaid petition had first been presented to them.

**200. SEC. 4.** That it shall be lawful for the mayor and council to enter into a contract or contracts for the lighting of the streets of the borough for any period of time of five years or less, and that any and all such contracts heretofore entered into, for a term not exceeding five years, be and the same hereby are ratified and confirmed.

Mayor contract for lighting streets.

**201. SEC. 5.** That it shall be the duty of the newly-inaugurated mayor to preside at the annual meeting of the council, which shall be held on the first Monday following the annual election, and continue to preside until the president of the council is elected as hereinafter provided, and thereafter it shall be in the discretion of the mayor whether or not he shall preside at any of the other meetings of the council during his term; *provided*, in case the council, after three ballots, fail to elect a president, then the mayor shall appoint the president from the candidates.

Mayor shall preside at annual meeting of council until president is elected.

Proviso.

**202. SEC. 6.** That the council shall, at the first regular council meeting after this act goes into effect and at the annual council meetings thereafter, elect from their number a president of the council, who shall preside at all the meetings of the council when the mayor does not so preside; that he shall hold his office for the term of one year and until the next annual council meeting; he shall have the right of debate and a vote on all questions before the council; that upon his election, and before taking his office, he shall take and subscribe an oath to well and faithfully perform the duties of his said office according to the best of his ability and understanding, and file the same with the borough clerk.

Council shall elect president.

Shall subscribe oath of office.

**203. SEC. 7.** That in case of the mayor's absence for a period of three days, or in case of the mayor's inability to act by reason of sickness or other cause, the president of the council shall perform all the duties of the mayor during such absence or inability; *provided, however*, that it shall be the duty of the mayor, in case of his intended continued absence from the borough for more than three days at any one time, to notify said president in writing of such intended absence, whereupon the said president shall be and become acting mayor from the receipt of such notice, and shall continue to act until the mayor's return.

Shall be acting mayor during mayor's absence or inability.

Proviso.

**204. SEC. 8.** That all vacancies occurring by reason of resignation, death or otherwise in any of the elective offices of the borough, shall be filled by the mayor and council until the first Monday succeeding the then next annual election, and until the election and qualification of his successor.

Vacancies in office, how filled.

**205. SEC. 9.** That each and every ordinance passed by the council, and also all resolutions of the council, excepting only such as refer to or regulate matters of procedure by or before the council, shall be submitted to the mayor for the purpose of his approval or veto, as prescribed in and by section four of chapter seventy-five of the laws of one thousand eight hundred and eighty-five [see Sec. 38, *ante*], being a supplement to the act to which this act is a supplement.

Ordinances to be submitted for approval or veto.

**206. SEC. 10.** That any assessments made for grading or otherwise improving streets, roads, avenues or public places, and for curbing and guttering, and for the construction of flagstone sidewalks, may, at the option of the owner or owners of the lands affected thereby, be paid in three equal installments, the first within ninety days after the assessment has been perfected, the second in one year thereafter, and the third in two years thereafter, together with interest thereon at and after six per centum per annum, and said assessment, or such part thereof as may remain unpaid, shall be and remain a first and paramount lien upon the lands affected thereby until paid; that such owner or owners shall not have the benefit of the provisions of this section unless and until such owner or owners shall execute and deliver to the mayor and council an instrument in writing, under his,

Assessments for improvements may be paid in installments.

Until paid shall be first lien upon lands.

Benefits of provision shall not be allowed until certain conditions are complied with.

her or their hand and seal duly acknowledged or proven as mortgages are by law required to be, setting forth the nature and amount of such assessment, and the dates when the installments are due and payable, and a description of the lands and premises against which said assessment is levied, and which said instrument shall be recorded and indexed in the clerk's or register's office, as the case may be, of the county within which the borough is situated, in the same libers and manner as mortgages are recorded, and same recording fees paid, and upon payment of the assessment therein described, with interest, and the costs and expenses incurred respecting the same, the mayor and council shall deliver a certificate of satisfaction therefor, and the clerk or register shall discharge such record in the same manner and at same expense as mortgages are discharged; *provided*, that upon the failure to pay any installments and interest when due, the whole of said assessment shall become immediately due and payable, and collection enforced by the sale of the lands affected thereby, as now provided by law for the sale of lands for unpaid taxes.

Proviso.

Officers nominated by mayor.

**207. SEC. 11.** That the mayor shall nominate, and with the advice and consent of the council shall appoint, any and all officers to be elected or appointed by the mayor and council, including the filling of vacancies in elective offices.

Repealer.

**208. SEC. 12.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

A supplement to an act entitled "A further supplement to an act entitled 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," which supplement was approved May ninth, one thousand eight hundred and ninety-four, and is chapter one hundred and seventy-six of the laws of one thousand eight hundred and ninety-four.

P. L. 1895, p. 104.

Approved February 25, 1895.

Repealer.

**209. SEC. 1.** That the second section of the act to which this is a supplement [Sec. 195, *ante*] be and the same is hereby repealed; *provided, however*, that the term of office of any freeholder heretofore elected under said act shall be extended to and terminate on the second Wednesday of May next.

Right of borough electors to vote for chosen freeholder.

**210. SEC. 2.** That at the annual elections for borough officers which are held on the same day that the annual township elections are held in the various townships of this state, the legal voters of any borough heretofore organized under and by virtue of the act to which this is a supplement, embracing within its territory parts of more than one township, shall be entitled to vote within such borough for a chosen freeholder for the township in which a majority of the legal voters of such borough shall reside at the time of the passage of this act, and the legal voters of any such borough hereafter organized under and by virtue of said act shall be entitled to vote therein for a chosen freeholder for the township in which a majority of such legal voters shall reside at the time of the incorporation of such borough.

Proceedings in case of dispute as to where majority resides.

**211. SEC. 3.** That if any dispute shall arise or doubt shall exist as to which township shall contain the residence of a majority of the legal voters of any such borough, it shall be lawful for the council of such borough or the township committee of any township interested to apply to the president judge of the court of common pleas of the county wherein such borough is situated, who shall proceed in a summary way, on such notice as he may direct, to ascertain in which township the greater part of the legal voters of such borough reside, and his adjudication in writing duly filed in the office of the clerk of said county shall be final and conclusive evidence thereof.

Votes in borough to be added to votes in the township.

**212. SEC. 4.** That the votes polled in such borough for freeholder shall be added to the votes polled in the township and canvassed in the same

manner as the votes of the several election districts in the township and canvassed in the same manner as the votes of the several election districts in townships now are or hereafter may be directed by law to be canvassed.

Supplement.

Approved March 7, 1895.

P. L. 1895, p. 210.

**213. SEC. 1.** That all boroughs existing within the limits of any of the townships of this state incorporated under the act to which this is a supplement, shall hereafter be entirely separate and independent in all matters of local government from the townships out of which said boroughs have been created. [See Sec. 186, *ante*.]

All boroughs shall be separate in government from the townships.

215-213  
29V-494, 502  
30V-89

**214. SEC. 2.** That in all boroughs incorporated under the act to which this is a supplement the legal voters of said boroughs shall, at each annual election for borough officers, elect justices of the peace, constables, surveyors of the highway, poundkeepers and overseers of the poor for such boroughs, in accordance with existing statutes regulating the election and term of office of such officers in townships.

What officers shall be elected in boroughs.

215-214  
A96-89

**215. SEC. 3.** That the mayor of each and every borough incorporated under the act to which this is a supplement shall hereafter be elected to serve for the term of two years.

Term for which mayor shall be elected.

**216. SEC. 4.** That the legal voters of all boroughs incorporated under the act to which this is a supplement shall have the right, by vote, to designate annually, upon the ballots used in voting for borough officers, such amounts as may be deemed advisable for any and all legal purposes of a local nature in any way connected with said boroughs.

Appropriations shall be voted for at the annual election.

**217. SEC. 5.** That hereafter all boroughs incorporated under the act to which this is a supplement shall be entitled to one member of the board of chosen freeholders, provided the population exceeds twenty-five hundred, to be elected in accordance with the existing statutes now regulating the election and length of terms of members of said boards of chosen freeholders.

May elect a member of board of chosen freeholders.

**218. SEC. 6.** That in case of the formation of any borough out of the part of any township in this state by virtue of the above act, any member of the township committee, overseer of the roads or township officer, residing within the limits of the borough, shall hold his said office and perform the duties thereof until the next general election is held for the election of township officers, at which time some other person or persons residing in the remaining part of said township shall be elected in his place and stead, whether the term of his said office for which he was originally elected has expired or not.

Township officers shall serve until next annual borough election.

**219. SEC. 7.** That all acts and parts of acts inconsistent herewith be and they are hereby repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved March 14, 1895.

P. L. 1895, p. 269.

**220. SEC. 1.** That the collector of taxes of any borough formed under the act to which this is a supplement shall, when requested to do so at any time by the mayor and council of such borough, render to said mayor and council a true and full account of all moneys collected by him as such collector up to such time, and of all payments made by him out of said moneys, and for what purpose, and shall also, when required by said mayor and council, pay over to any bank or banking institution designated by them all moneys then in his hands collected or received by him for borough purposes, in the corporate name of such borough, subject to drafts thereon, to be signed by the said mayor, attested by the borough clerk and countersigned by the said collector.

Collector shall render account to mayor and council when required, &c.

**221. SEC. 2.** That if any such collector shall not comply with any such requirement, demand or direction of such mayor and council as herein provided, then he shall forfeit and pay to such borough the sum of one

Penalty for non-compliance.

## BOROUGHES.

hundred dollars, to be recovered in a proper suit in any court of competent jurisdiction.

Repealer.

**222. SEC. 3.** That all acts or parts of acts inconsistent herewith be and the same are hereby repealed.

P. L. 1895, p. 561.

Mayor and council may establish a police department.

Police stations and electric signals may be erected.

Surplus crushed stone may be sold.

Village government may be incorporated under borough act.

Proviso.

Mayor and council may fix salaries of assessor and collector.  
Repealer.

P. L. 1895, p. 589.

Preamble.

Existing officers to serve until when.

## Supplement.

Approved March 22, 1895.

**223. SEC. 1.** That it shall be lawful for the mayor and council to establish by ordinance a police department for the borough, with such officers and patrolmen as they shall deem necessary, and by said ordinance determine and from time to time as public safety may demand to in like manner increase such police force, and the cost and expense of said department and the maintenance thereof shall be defrayed out of the taxes received for general borough purposes.

**224. SEC. 2.** That said mayor and council may cause to be erected and maintained such police stations as may be necessary for the efficiency of the department referred to in the preceding section of this act, and to cause to be constructed or erected electric or other police signals, to and with such stations, and in case there be no funds applicable for this purpose to issue certificates of indebtedness therefor payable in five years or such less time as they may determine.

**225. SEC. 3.** That in case a borough owns a stone crusher it shall be lawful for the mayor and council to sell for cash surplus crushed stone.

**226. SEC. 4.** That the inhabitants of and the territory within any incorporated or semi-incorporated village may in manner provided for the incorporation of boroughs under the act to which this is a supplement, be and become incorporated as a borough under last aforesaid act, and that upon the consummation of such borough incorporation in manner provided by said act, the village government shall cease and determine, and all moneys, assets, rights, interests and credits of every name and nature shall be and become the property of and vested in the mayor and council of such borough, and the liabilities of such village shall be and become the liability of such borough, and shall be paid as other borough indebtedness; *provided, however,* that any and all boroughs heretofore incorporated under said act from and out of the territorial area of any such village be and the same is hereby ratified and confirmed in all things, and such incorporation and all things thereto appertaining shall have the same force and effect in fact and in law as though such borough had been incorporated after the passage of this act.

**227. SEC. 5.** That it shall be lawful for the mayor and council to annually by ordinance fix and determine the salary and compensation of the borough assessor and collector of taxes.

**228. SEC. 6.** That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

Approved March 22, 1895.

WHEREAS, An act passed at this session of the legislature entitled "A further supplement to an act entitled 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," which first-named act was approved March seventh, one thousand eight hundred and ninety-five, went into effect only five days before the usual spring general elections in this state, whereby it was impracticable to fully put into effect all its provisions, especially those relating to the election of members of the township committee, overseers of the roads or township officers, as provided for in section six of said act; therefore,

**229. SEC. 1.** That in all townships of this state within the limits of which are boroughs incorporated under the act to which this is a supplement, and in which townships at the time of the last general election the legally-qualified voters thereof failed to elect any member or members of the township committee, overseers of the roads or township officers in the

place of such officers who were residing within the limits of such boroughs, under the provisions of section six [see Sec. 218, *ante*,] of the act above mentioned, approved March seventh, one thousand eight hundred and ninety-five, the members of the township committee, overseers of the roads or township officers residing within the limits of such boroughs shall continue to act as such officers until the expiration of their several terms of office, anything in said supplement approved March seventh, one thousand eight hundred and ninety-five, to the contrary notwithstanding.

**An act to amend and correct an error in the title of chapter eighty of the laws of one thousand eight hundred and eighty-three.**

Approved April 8, 1887. P. L. 1887, p. 142.

WHEREAS, It is made to appear through a clerical or typographical error in the title of chapter eighty of the laws of one thousand eight hundred and eighty-three, entitled "A supplement to an act entitled 'An act for the formation of borough governments,'" approved April third, one thousand eight hundred and seventy-eight, that the said act is not supplemental to the act to which it was intended to be a supplement; therefore,

Preamble.

**230. SEC. 1.** That the title of chapter eighty of the laws of one thousand eight hundred and eighty-three [*i. e.* title to act contained in Secs. 30 to 34, *ante*] be and the same is hereby amended so as to read as follows:

Amendment of title of act of 1883.

[A supplement to an act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight.]

**An act to provide for the annexation of additional township territory to boroughs incorporated under "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight.**

Approved March 26, 1888. P. L. 1888, p. 261.

**231. SEC. 1.** That such other part or parts of the territory of any township lying adjacent to any borough incorporated under an act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, or under and by virtue of any special act, and the inhabitants thereof, may be and become a part of such borough and subject to its authority and laws in every respect whenever at a special election to be called for the purpose, as hereinafter provided, it may be so decided by a concurrent majority vote of legal voters for members of assembly of both the said borough and of the proposed annexed district voting as distinct and separate bodies, as hereinafter provided; *provided, however*, that the area of the proposed annexation added to the area of the said borough shall not exceed in the aggregate four square miles, as provided in the act hereinbefore referred to.

When additional territory may be annexed.

Proviso.

**232. SEC. 2.** That the mayor and council shall, upon receiving a petition setting forth the boundaries of the district or territory so to be annexed, signed by at least twenty-five legal voters within said borough and territory so to be annexed, direct the borough clerk to call a special election, to be held in some convenient place within the borough, by notice (written or printed), under his hand, which notice shall contain an accurate description of the territory so proposed to be annexed, and shall state the object of the election to be to vote for or against the annexation of such territory to said borough, the time and place of holding the election, and the hours between which the polls shall be open, which notice shall be set up at least fifteen full days previous to said election in five of the most public places in the said borough, and a like number in the territory proposed so to be annexed, and shall be published at least twice in all the newspapers printed and published in both the borough and proposed annexed district (if any); if none so published in either the borough or annexed district, then in two newspapers printed and published in the county wherein the borough is situated.

Special election, when and how called.

Notice of election.

Mayor to appoint clerk and inspectors of election.

**233. SEC. 3.** That the mayor of the borough shall appoint, in writing, under his hand, a clerk and two inspectors of said election, who shall be legal voters within the borough and proposed annexed territory, one of whom, at least, shall be a resident of the said proposed annexed district, who before entering upon the discharge of their duties shall take and subscribe an oath or affirmation to faithfully perform their duties as such clerk and inspectors.

Two ballot-boxes to be used at election.

**234. SEC. 4.** That there shall be two ballot-boxes for said election, one for the ballots of voters within the borough and the other for those of the proposed annexed district; and the said officers of the election shall, as the votes are cast, deposit the same in the proper box, an inspector being in charge of each box.

How election conducted.

**235. SEC. 5.** That the polls shall be open from seven o'clock in the forenoon to seven o'clock in the afternoon, and the said election shall be conducted as near as may be in all respects as elections for members of assembly, and be governed by the same laws; *provided*, that no one shall be entitled to vote at said election who shall not have been an actual resident of the borough or of the proposed annexed district for thirty days next preceding the day of such election, and be otherwise qualified to vote as provided by law.

Proviso.

What ballots to contain.

**236. SEC. 6.** That the ballots used at said election shall be either printed or written, and shall contain the words "for annexation," or "against annexation," as the case may be, and that at the close of the polls the said election officers shall proceed to canvass the votes cast, and shall certify the result separately in the same manner (as near as may be) as provided in section three of the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and if the result of said election shall be in favor of annexation in both the borough and proposed annexed district, as provided in the first section of this act, then and in that case, upon the filing of said certificates of the result of said election, the proposed annexed district shall be and become a part and parcel of said borough in all respects, and the real and personal property therein shall be and become liable to be assessed for all taxes legally ordered or voted assessed in said borough, but not then as yet actually assessed, and the mayor and council shall thereupon cause a certified description of the boundaries of said borough as enlarged to be filed in the clerk's office of the county within which the borough is situated; *provided, however*, that nothing in this act contained shall be construed as constituting the said annexed territory as a part of the borough school district, but that the same shall be and remain a part of the school district to which said territory belonged at the time of the aforesaid election, unless the boundaries of such school district be afterwards changed in manner provided by law.

How result certified, &c.

Proviso.

**237. SEC. 7.** That the petitioners for annexation shall bear and pay all the expenses attending the proceedings of, and special election for, annexation.

Expenses of election, by whom paid.

Repealer.

**238. SEC. 8.** That all acts and parts of acts, both general and special, inconsistent with the provisions of this act, be and the same are hereby repealed.

**An act to invest marshals appointed by the borough authorities under an act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, with the powers and duties of the several constables throughout this state.**

P. L. 1889, p. 71.

Powers and authority of marshals.

Approved March 19, 1889.

**239. SEC. 1.** That each and every marshal appointed under and by virtue of an act of the legislature of this state entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, be and he is hereby invested with all the powers and authority of the several constables in this state, in the service

and execution of all writs and process, both civil and criminal, issued or to be issued out of any of the courts of this state, and in the performance of all other duties now performed or to be hereafter performed by said constables, and shall have and receive therefor the same fees and compensation as are now had and received by the said constables for the like service.

**240. SEC. 2.** That every marshal appointed as aforesaid, shall, before he enters upon the execution of his office, enter into a bond to the mayor and council of the borough by which he shall have been appointed, with one or more sureties, to be approved of by the said mayor and council, in such sum as they shall direct, conditioned for the true and faithful performance of all the duties of his said office as marshal, of the following or like form :

Marshal to enter into bond.

Know all men by these presents, that we, A B, C D and E F, all of the borough of \_\_\_\_\_, in the county of \_\_\_\_\_, in the state of New Jersey, are held and firmly bound unto the mayor and council of the borough of \_\_\_\_\_, in the county of \_\_\_\_\_, in the sum of \_\_\_\_\_ dollars, money of the United States, to be paid to the said mayor and council of the borough of \_\_\_\_\_, in the county of \_\_\_\_\_, their successors or assigns ; to which payment, well and truly to be made, we bind ourselves and each of us for himself in the whole, our and every of our heirs, executors and administrators firmly by these presents.

Form of bond.

Sealed with our seals, and dated the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, et cetera.

The condition of this obligation is, that, whereas, the above-named A B has been duly appointed marshal of said borough ; now, therefore, if the said A B shall truthfully and faithfully perform all the duties enjoined on him as marshal of said borough, then the above obligation to be void, otherwise to be and remain in full force and virtue.

Condition.

Signed, sealed and delivered in the presence of

A B. [L. s.]  
C D. [L. s.]  
E F. [L. s.]

which bond shall be delivered to the clerk of the borough, who shall file and safely keep the same in his office.

Where filed.

**241. SEC. 3.** That if any person shall sustain loss by the neglect or default of any constable in the discharge of his official duties, whereby such bond shall become forfeited, and shall, by himself, his agent or attorney, make affidavit of such loss, before any person authorized to administer the same, and shall tender such affidavit to the clerk of the borough having the custody of such bond, it shall be the duty of such clerk to file the affidavit in his office, and thereupon forthwith to deliver to the person or persons making such affidavit, his, her or their agent or attorney, a certified copy of such bond, to the end that an action may be brought upon such bond.

Copy of bond, how obtained.

**242. SEC. 4.** That all suits or actions to be brought and prosecuted on the bond of any marshal, conditioned for the faithful performance of the duties of the office of constable, shall and may be brought and prosecuted in the supreme court, or any of the circuit courts or courts of common pleas of this state, and the same shall be conducted and prosecuted in every respect as suits on sheriff's bonds are by law directed to be prosecuted ; and the court before whom any judgment shall be obtained on any marshal's bond as aforesaid, shall from time to time, upon due notice, assess the damages which shall have been sustained by any person or persons by reason of any neglect or default of the said marshal in his official duties, and the said court shall and may award execution thereon, with costs, provided the said assessment do not exceed the penalty of the said bond.

Proceedings for prosecution of bond.

**243. SEC. 5.** That assessments of damages in and by this act directed to be made by the court, shall be made by a jury upon the application of either party interested, anything in this act to the contrary notwithstanding.

Assessment of damages to be made by jury.

Name of persons to be indorsed on process.

Sheriff to make levy, &c.

Persons bringing actions to give bond.

Proceedings in case marshals abscond or become insolvent.

Sureties on bonds may apply to justice of the peace for summons, &c.

Suits, how proceeded.

Execution to be issued.

Power of executors and administrators of marshals to collect and settle executions.

**244. SEC. 6.** That the name of the person or persons for whose use the said bond shall be prosecuted, shall be indorsed upon the first process to be issued thereon, and shall also be mentioned and stated in the declaration in such suit; and if, in any such suit, the plaintiffs shall discontinue, be non-suited or judgment pass against them, the said person or persons for whose use the said suit is brought and prosecuted, and not the said borough, shall be liable for costs; and it shall be the duty of the sheriff or other officer, to whom any writ of execution issued upon such judgment shall be directed and delivered, to make and levy the amount of money required to be made and levied by the said writ of execution upon and out of the property, real or personal, as may be required, of the said person or persons for whose use the said suit is brought or prosecuted.

**245. SEC. 7.** That the person or persons for whose use the said action shall be brought upon any such bond, shall, if required before issue joined, give bond to the defendants in the sum of one hundred dollars, with sufficient sureties, being freeholders and residents in this state, with condition to prosecute the said action with effect and pay costs if the plaintiffs discontinue, be non-suited or judgment pass against the plaintiffs; which bond shall be filed in the office of the clerk of the court in which such action shall be pending.

**246. SEC. 8.** That if any marshal hath absconded or shall abscond, or become insolvent or incapable of doing the duties of his said office, it shall be lawful for the court of common pleas of the county from which said marshal hath absconded or shall abscond, or become insolvent or incapable as aforesaid, on application for that purpose, to authorize the surety or sureties of such marshal for the time being, to ask, demand, sue for and recover any moneys which said marshal could or might lawfully demand, levy and receive by virtue of any process of execution or other process in his official capacity as marshal, and also all moneys in the hands of any person or persons collected by said marshal on any execution or process; and which, at the time of his absconding or insolvency or incapacity as aforesaid, were not paid over to the plaintiff or person entitled to the same.

**247. SEC. 9.** That where, by the absconding, insolvency or incapacity as aforesaid of such marshal, executions or process in his hands remain wholly or in part unexecuted, it shall be lawful for the said surety or sureties for the time being, authorized as aforesaid by the court of common pleas, to apply to any justice of the peace in the county where such judgment was rendered and execution issued thereon, for a summons on contract on such judgment and execution in the name of the plaintiff or plaintiffs in the original process against the defendant or defendants therein; and the said suit shall proceed as in other cases of summons on contract, the said surety or sureties always producing before the said justice a transcript of the judgment and the execution or executions issued thereon, and the defendant or defendants may plead payment or satisfaction of such judgment or execution, in part or whole, to such absconding, insolvent or incapable marshal, or other lawful discharge; and in case of final judgment against the defendant or defendants, execution may be issued immediately for debt and costs, but if judgment should be for the defendant or defendants, with costs, the said surety or sureties shall pay the same, and if recovered against the plaintiff or plaintiffs named in the record, they may recover the same over from the surety or sureties.

**248. SEC. 10.** That in case any marshal shall die before settling up all executions that shall have come to his hands by virtue of his office, his executors or administrators shall and may have full power to collect and settle up any execution or process remaining unsettled at the time of his decease, in the same manner as the surety or sureties of marshals in the preceding sections; and in case of the neglect or refusal of the said executors or administrators as aforesaid, the surety or sureties of the said deceased marshal shall have the same power to collect and settle the said executions as mentioned in the preceding sections of this act.

**249. SEC. 11.** That all moneys which may be recovered or come to the hands of any surety or sureties, executor or executors, administrator or administrators, by virtue of this act or otherwise, in regard to the said absconding, insolvent, deceased or incapable marshal, shall be held and appropriated by such surety or sureties, executor or administrator to the only proper use and benefit of the person or persons who may have lawful right thereto.

Moneys recovered, how appropriated.

**250. SEC. 12.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

**An act concerning the sale of lands and real estate in fee where the same have been purchased by the mayor and council of boroughs incorporated under the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, for taxes or assessments.**

Approved May 17, 1894. P. L. 1894, p. 425.

**251. SEC. 1.** That it shall be the duty of the mayor and council of boroughs incorporated under the act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and the supplements thereto, after the lapse of six months from the date of record of any certificate of sale of lands and real estate to said borough for unpaid taxes or assessments of any kind, name or nature, to present to the circuit court of the county within which said borough is situate a petition or petitions setting forth the date of sale, the name of the owner under which said tax or assessment was made, a description of the lands so purchased, the date of record of the certificate, the amount for which purchased and any and all subsequent accumulation of taxes and assessments of any kind, name or nature, and which petition shall also set forth the name and residence, if known, of all lienors upon the property so described in said petition since the date of assessment or levy; and that thereupon the said court shall grant an order to show cause, returnable at such time and place as may be fixed and determined therein, to be served upon the owner and lienors in such manner as the said order shall direct, requiring the owner or owners of said lands and lienors to show cause at the time and place in said order to show cause named why the said lands and premises should not be sold in fee.

Proceedings to obtain order to show cause why lands sold for taxes should not be sold in fee.

**252. SEC. 2.** That upon the return of said order with due proof of service in the manner therein set forth the court shall, or upon any adjourned day thereof, if no good cause to the contrary be shown, direct that said lands and premises be sold in fee at public auction, at a time to be fixed and at a place within said borough designated, which time shall not be less than four weeks from the date of said order, and said order shall provide what notice shall be given of said sale and the manner of service thereof upon the owners and lienors; and said order shall direct that the collector of taxes of the borough shall make such sale to the highest bidder; *provided*, that the said lands and premises shall not be sold for less than the taxes and assessments, or both, that shall be then a lien upon said lands and premises, and that the said sale shall be held between the hours of nine o'clock in the forenoon and four o'clock in the afternoon; *and provided further*, that the advertisement above referred to shall be published at least once a week for four weeks prior to said sale in two newspapers, if any, printed and published within the said borough.

Court may direct sale to be made.

Proviso.

Proviso.

**253. SEC. 3.** That the said collector shall, on receipt of the purchase-money on any sale, execute and deliver to the purchaser a certificate of such sale, which shall contain a covenant on the part of the borough to refund the amount paid for said lands in cash, without interest, in case the title conveyed by said sale shall prove invalid, upon the surrender of said certificate of sale and proof of the service of the notice thereof as hereinbefore provided upon the owner and lienors of said lands.

Collector shall deliver certificate, which shall contain covenant, &c.

**254. SEC. 4.** That in case said lands and premises shall not be redeemed within one year from the date of service of notice upon said owners and

Collector shall execute and deliver deed.

## BOROUGHS.

- lienors, or their personal representatives, the said collector of taxes shall execute and deliver to the purchaser at said sale, his heirs, devisees or assigns, a deed for said lands and premises, which deed shall be signed, sealed and acknowledged in the usual manner of deeds or conveyances of real estate, and such purchaser, his heirs, legal representatives and assigns, shall take a good and sufficient title to the said premises so sold in fee-simple, absolutely free from all incumbrances, except such taxes, assessments and other governmental impositions as may have been levied after the confirmation of said sale, and which said deed shall be presumptive evidence in all courts and places, and in any proceedings and actions by said purchaser, his heirs, legal representatives or assigns, taken, prosecuted or defended for the recovery of the property so sold as aforesaid, or in the establishment or defense of his or their title, shown as aforesaid by such deed, and the said title shall not fail or be defeated by reason of any informality in the proceedings had or taken under this act, upon which the sale shall have been made or the title conveyed as aforesaid, or by reason of any illegality in the assessment of such tax or assessment or other lien in any way whatsoever, provided only that the property so sold shall, at the time such tax, assessment or lien is so levied or imposed, be liable to the imposition of the tax, assessment or lien in respect to which such tax, assessment or lien was imposed or fixed.
- 255. SEC. 5.** That the borough may become a purchaser of said lands in the same manner as an individual and receive a deed therefor, and that after the receipt of said deed the lands may be sold to any person or persons by a good and sufficient deed on such terms as may be agreed upon, with or without warranty; *provided*, if sold at private sale the price shall not be less than the amount due the borough thereon and interest when purchased.
- 256. SEC. 6.** That proof of the publication and service of the notice hereinbefore referred to shall be filed in the office of the borough clerk within one month after the date of such service, and such affidavits or proofs shall be prima facie evidence in all courts and places of the facts therein stated, and the purchaser shall be entitled to possession of said lands immediately upon giving such notice to the owner thereof, in case the same are unoccupied, and his residence or post-office address be known, and if not known and cannot be ascertained, then upon filing proof of inquiry as to his residence, such purchaser shall be entitled to take immediate possession, and if occupied, then within thirty days thereafter; and such purchaser shall have the same remedy by writ of assistance or otherwise in the circuit court of the county wherein such lands are situate, or in the court of chancery, for the recovery of the possession of said lands as the purchaser of mortgaged premises at a foreclosure sale is now or may hereafter be entitled to by any law or practice of this state.
- 257. SEC. 7.** That it shall not be necessary to set out the proceedings under this act at length in the deed for the lands so sold, but a general statement of the proceedings taken under the authority of this act shall be sufficient.
- 258. SEC. 8.** That the said court shall have power to amend or alter in any way the description of the lands and premises affected by this act, to the end that the same may be made definite and certain, and for that purpose may take proofs to show the lands intended, so that a proper description may be made of the lands sold under and by virtue of the provisions of this act.
- 259. SEC. 9.** That no writ of certiorari shall be allowed to contest or set aside any of the proceedings under this act, unless the party applying for such writ shall give bond with approved securities, conditioned for the payment of so much of said tax, assessment or lien as shall be ascertained, in such manner as said court shall direct, to be justly due and payable, with interest and costs, nor unless the application therefor be made within three months after the sale under this act.
- Title shall not fall because of informality, &c.
- Borough may become purchaser.
- Proviso.
- Proof of publication and service of notice shall be filed.
- Purchaser may take immediate possession.
- General statement in deed sufficient.
- Court may alter or amend description.
- Conditions for allowance of certiorari.

**260. SEC. 10.** That all moneys received upon sales in pursuance of the provisions of this act shall be deposited with the borough collector, and the surplus, if any, remaining in any case after deducting the amount of the tax, assessment and lien, and interest and expenses of sale and disbursements allowed by any order or judgment under which said sale shall have been made, shall be held for the use of and paid over to the person or persons legally entitled thereto, upon the establishment of his, her or their right to the same; *provided*, that interest thereon shall not be recoverable from the borough for the use of any such surplus moneys.

All moneys received shall be deposited with collector. Surplus shall be held for person legally entitled.

**261. SEC. 11.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to validate and confirm proceedings for the formation of borough governments had and taken under the provisions of an act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and the acts amendatory thereof or supplemental thereto.

Approved March 5, 1895.

P. L. 1895, p. 167.

**262. SEC. 1.** That no proceedings had or taken for the formation of a borough government under the provisions of an act entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and the acts amendatory thereof or supplemental thereto, shall be taken or held to be invalid or inoperative, because the petition of the inhabitants of the district incorporated or to be incorporated, presented to a judge of the court of common pleas, as in the said acts directed, shall have failed, or shall fail, to set forth or state that the district described in the said petition embraced a territory or area not to exceed four square miles and did not contain a population exceeding five thousand, or because the order made on the presentation of the said petition recites that it is made by the court or in the name of the judge of the court, instead of by or in the name of the judge of the said court who signed the said order, or because of any other irregularities or errors in the proceedings taken under the said act for the formation of such borough; *provided, however*, that in any suit or judicial proceeding which has been or may be brought to test the validity of such proceeding, or the validity of the incorporation of such borough, it shall be made to appear either by the record of the said proceedings, or by other proof, that such petition was signed by the persons and in the manner required by the said act; that the territory described in the said petition did not embrace an area to exceed four square miles and did not contain a population exceeding five thousand; that an order for the said election was made upon the presentation of the said petition, signed by the judge of the court of common pleas of the county within which the district described in the said petition is situated, and that the order for said election and the notice thereof was published as required by law, and that the said election was held at the time and place designated therein, and that at such election a majority of the votes cast for and against the incorporation of the said borough were cast in favor of the incorporation thereof.

Proceedings for formation of boroughs not to be invalidated because of certain informalties.

**263. SEC. 2.** That all acts and parts of acts inconsistent with this act be and they are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to facilitate the separation of boroughs from townships.

Approved March 22, 1895.

P. L. 1895, p. 453.

WHEREAS, By an act entitled "A further supplement to an act entitled 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," which said supplement was approved April twenty-fifth, one thousand eight hundred and ninety-four, it was provided that all boroughs of the first class existing within the limits of any of the townships of this state should thereafter be entirely

Preamble.

separated and independent in all matters of local government from the township out of which such borough was created, and that no voter of any such borough shall have the right to vote for any township officer nor for any appropriation for township purposes; but such act did not provide for any change of any township election district which embraced any portion of any such borough; and did not provide for any apportionment between such township and borough of property, money, or debts of such township in which the people of such borough had rights or were liable to pay; therefore,

When committee may consolidate election districts.

**264. SEC. 1.** That in all townships of this state having more than one election district, whenever at any election held in such township the total number of votes cast in any two election districts of such township shall aggregate less than six hundred, the township committee of such township shall have power to consolidate said two election districts or to change or alter any or all of the election districts of such township, which consolidation, change or alteration shall be made in the same manner now prescribed by law in cases where election districts contain more than six hundred voters.

Township and borough authorities shall divide public property.

**265. SEC. 2.** That in case of every township in this state coming within the terms of the act entitled "A further supplement to an act entitled 'An act for the formation of borough governments,' approved April fifth, one thousand eight hundred and seventy-eight," approved April twenty-fifth, one thousand eight hundred and ninety-four [see Sec. 186, *ante*], the township committee of such township and the mayor and council of such borough shall meet at such time and place as they or a majority of each of them shall agree upon, not later than the fifth day of July next, and on said fifth day of July next, at ten o'clock in the forenoon of that day, if a time and place be not sooner agreed upon, at the council chamber in such borough, and shall then and there proceed in writing, signed by a majority of the members present, to allot and divide between such township and borough all properties and moneys of the township in hand or due at the close of the last preceding fiscal year of such township, and all debts owing by said township in proportion to the taxable properties and ratables of such township, exclusive of such borough, with the taxable properties and ratables of such borough, which said proportion shall be ascertained from the respective tax duplicates of such township and borough for the last preceding year; and such borough shall be liable to pay the proportion of the debts of such township which shall be so allotted to it, and it shall be the duty of the mayor and council of such borough, if necessary, to issue bonds with legal interest payable annually to the township committee of such township for the proportion of such indebtedness allotted to such borough, and the collector of taxes of such borough shall be entitled to demand, have, take and receive from the treasurer of such township all the proportion of moneys and properties so allotted to such borough, and upon failure of such township treasurer for thirty days after such meeting to pay over and deliver the same to such collector, he shall be entitled to recover the same by appropriate action in the circuit court of the county in which such township is situate; in case any of the persons comprising either such township committee or such mayor and council shall neglect or refuse to meet as aforesaid, those assembled may proceed to make such allotment and division, and the decision of a majority of those present shall be final and conclusive.

Each municipality shall pay its proportion of public debts.

Borough may issue bonds for its proportion.

Borough may recover its proportion of property by suit. Officials present may make division.

Repealer.

**266. SEC. 3.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

## II. Borough act of March 12th, 1890, with supplements.

## An act for the formation and government of boroughs.

Approved March 12, 1890. P. L. 1890, p. 58.

**267. SEC. 1.** That the inhabitants of any district in this state, embracing an area of not more than two square miles and taxable real estate of the amount of not less than one hundred thousand dollars, and within which area resides, during any portion of the year, a population of not less than two hundred, may become a body politic and corporate, in fact and in law, whenever at a special election, to be called for the purpose, as hereinafter provided, it may be so decided by a majority of votes of the electors of said proposed borough who are qualified to vote at elections for state and township officers. [See Sec. 299, *post.*]

Extent of area and population which may be embraced in a borough.

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**268. SEC. 2.** That it shall be the duty of any judge of the court of common pleas in and for the county in which said proposed borough is situated, upon presentation to him of a petition for that purpose, setting forth the name and boundaries of the proposed borough, signed by persons owning at least one-tenth in value of the taxable real estate in the limits of the proposed borough, as the same appears upon the assessor's duplicate, to call a special election, to be held at some convenient place within the said proposed borough, by notice in writing under his hand, which notice shall contain an accurate description of the same and boundaries of the proposed borough, and state the object of the said election to be to vote for or against the incorporation of the said proposed borough under the provisions of this act; which notice shall be set up at least ten days previous to said proposed election in five of the most public places within the said proposed borough limits, and published at least twice in a newspaper printed and published within the said proposed borough limits, if any, or if none so published, then in a newspaper printed and published in the county wherein said proposed borough is situated.

Judge of court of common pleas to call a special election on petition to constitute a borough.

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**269. SEC. 3.** That the said judge shall appoint by writing, under his hand, a clerk and two inspectors of said election, who shall be freeholders and legal voters in the said proposed borough, and who shall hold and conduct the election aforesaid at the time and place specified in the said notice; the polls shall open and close at the same hours as at general elections in this state, and the election shall be conducted, as nearly as may be, in like manner as general elections are conducted; the ballots cast shall contain the words "for incorporation" or "against incorporation," as the case may be; at the close of the polls the said clerk and inspectors shall canvass the votes cast, and if the majority of said votes shall be for incorporation they shall forthwith certify the result of said election, and the number of votes cast for and against, under their hands, to the clerk of the county wherein said borough is situated, to be filed in his office, and from the time of filing said certificate in the office of the clerk of the county aforesaid the inhabitants of said borough shall be a body corporate, in fact and in law, under the name of "the mayor and council of the borough of \_\_\_\_\_," and by said name shall have perpetual succession, sue and be sued, prosecute and defend in all courts of law and equity in this state, have a common seal and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of said borough.

Appointment of election officers.

Ballots.

Result of election to be certified.

Corporate name.

**270. SEC. 4.** That on the second Tuesday next after the filing of the certificate of the result of the election aforesaid in the office of the clerk of the county, the legal voters of said borough shall assemble at the place where the election provided for in the next preceding section was held, at the hour of seven o'clock in the forenoon, and those so assembled may, by a viva voce vote, proceed to elect a judge and two inspectors to conduct the election for the officers hereinafter named, which said judge and inspectors, having first taken and subscribed an oath or affirmation, honestly and impartially to hold and conduct said election, shall

First election after incorporation of borough.

## BOROUGHES.

forthwith open the polls for the election of officers hereinafter mentioned; and the said election shall be by ballot, and shall be conducted in the same manner as elections for members of the legislature are conducted; the persons voting at said election shall be those who are qualified to vote at elections for members of the legislature in the townships wherein said borough is situated; the polls shall remain open until seven o'clock in the evening, and at the closing of the polls the judge and inspectors holding said election shall canvass the votes cast and certify the result, with the number of votes cast for each candidate, to the clerk of the county wherein said borough is situated, and shall also deliver a copy of said certificate, under their hands, to the clerk of the borough.

Officers and terms of office.

**271. SEC. 5.** That there shall be chosen at such election one mayor, who shall be keeper of the borough seal, and hold his office for two years; four members of council, which mayor and members of council shall be one body corporate and politic in deed, fact, name and law, by the name, style and title of the mayor and council of the borough of ———; and also a borough clerk (who shall be clerk of the election and perform all the duties required by law of the clerks of townships, not inconsistent with the provisions of this act), one assessor, one collector (who shall be borough treasurer), one chosen freeholder, two surveyors of the highways, three commissioners of appeal in cases of taxation, one judge and two inspectors of election and one poundkeeper, who shall hold office for such term as is now or shall hereafter be provided for similar officers in townships; *provided*, that at the first meeting of the council after the first election held under this act, the members of council shall divide themselves by lot into two classes; the term of the first class shall be vacated at the expiration of the first year, the term of the second class at the expiration of the second year, so that two members of council shall be elected annually after the first election, to hold their office for two years; and if vacancies happen, by resignation or otherwise, the person or persons elected to supply such vacancies shall be elected for the unexpired term only. [See Sec. 304, *post.*]

Proviso.

Election to be held annually.

**272. SEC. 6.** That there shall be held annually after such election on the second Tuesday in March in each and every year, an election in said borough for such of the officers named in the next preceding section whose term of office shall have expired or whose office may have become vacant, and such annual election shall be subject to the laws regulating township elections.

Officers to be appointed by council.

**273. SEC. 7.** That in addition to the officers above provided for, there may be appointed by the council one borough marshal, one surveyor, one solicitor and one superintendent of public roads, and such and so many policemen and other officers as shall be deemed necessary by said council, who shall hold office for such time and perform such duties as are or may be by law or ordinance of said council, not in conflict with law, provided for.

Result of first election and certificate of boundaries to be filed.

**274. SEC. 8.** That within twenty days after the first election held under this act, the clerk shall publish the result of such election, and shall file an official certificate of such election, and the boundaries decided upon, in the offices of the secretary of state and of the clerk of the county in which such borough is situate, which certificate shall be signed by three of the members of council elected.

Officers to take oath.

**275. SEC. 9.** That all officers elected or appointed by virtue of this act, shall, within twenty days after their election or appointment, and before entering upon the discharge of the duties of their offices, take and subscribe, before some person duly authorized by law for such purpose, an oath or affirmation faithfully and impartially to discharge the duties of their respective offices, and upon neglecting to do so the said offices shall be deemed and declared vacant; all such oaths or affirmations shall be filed in the office of the clerk.

What officers shall give bonds.

**276. SEC. 10.** That such officers as the council shall require, shall, before they enter upon the duties of their offices, give bonds to the borough in its corporate name in such sums and with such sureties as the said

council may require and approve for the faithful performance of their duties.

**277. SEC. 11.** That the mayor and members of council of such borough shall constitute the council thereof, and shall hold an annual meeting therein on the next Tuesday after the annual election yearly and every year, and such other meetings as they shall by ordinance direct and appoint; the mayor shall preside at such meetings and shall have a vote only in such cases where there is a tie, and in the absence of the mayor the members of council shall appoint one of their number to preside pro tempore; and when met, said council shall have power to make and adopt such ordinances, rules, by-laws and regulations, and in general to do and perform all such other acts as are provided for and warranted by this act; and that three members shall constitute a quorum of said council; and it shall be the duty of the mayor, when necessary, to call special meetings of said council, and in case of his neglect or refusal, then it shall be lawful for any three members of said council, at such time and place in said borough as they may designate, to call any special meeting or meetings by written or printed notices, and in all cases of special meetings notice shall be given to all the members of said council in person or left at their place of residence.

Meetings and power of mayor and council.

**278. SEC. 12.** That in case of vacancy happening in any office created and made elective by this act, by death, resignation, removal or otherwise, except in officers of election on the day of election, it shall be filled by the said council at their next meeting thereafter, and the said appointment shall continue until the next annual election and no longer; and the person or persons appointed to fill such vacancies shall be entitled to the like compensation and be subject to the same responsibilities and penalties as if elected at the annual election as aforesaid.

Vacancies, how filled.

**279. SEC. 13.** That the borough clerk, judge and inspectors of election, collector, assessor, chosen freeholder, surveyors of the highways, commissioners of appeal and poundkeeper, shall respectively possess the powers and perform the duties of like officers in any township of this state, so far as shall be consistent with the provisions of this act; and in addition the said borough clerk shall attend all meetings of the council of said borough, keep accurate minutes of their proceedings, and record the same in a book to be provided for that purpose, and in like manner record all ordinances passed by the council, and shall do and perform all such other duties as the said council may, from time to time, prescribe; and the power and duties of the treasurer of said borough shall be the same as collectors of townships of this state, and such other powers and duties as are provided for in this act, or shall be enjoined by the ordinances of said council.

Powers and duties of officers.

**280. SEC. 14.** That it shall be the duty of the collector, who shall be borough treasurer, to receive, collect and pay out all moneys due or belonging to said borough, whether for taxes, assessments, arrears of taxes or otherwise, and safely keep and disburse the same under the direction of the council, and shall pay out the same only upon the warrant of said council, signed by the mayor and countersigned by the clerk, and no warrant on the borough treasurer shall be authorized except in pursuance of an order of said council passed at a stated meeting and entered on their minutes; and such warrant shall be made and numbered payable to the order of the person or persons to receive the same, and shall specify for what purpose the amount therein mentioned is directed to be paid; the said treasurer shall keep a record of the proceedings affecting the revenue of said borough, and shall make out annually on the first Tuesday in March, or oftener should the council require, and publish in a newspaper printed in the county in which said borough is situate, if any there be, a detailed and true statement of all moneys received into the treasury, and of all moneys disbursed therefrom from the commencement of his official year to the date aforesaid, and file a copy with the borough clerk.

Duties of borough collector or treasurer.

**281. SEC. 15.** That the said council shall have power to pass, enforce, alter and repeal ordinances to take effect within said borough for the following purposes, viz.: to lay out, open, widen, vacate, alter, grade, fill up,

Council authorized to pass ordinances, &c.

Proviso.

straighten, extend, clean, repair, refill, establish, alter and regulate the grade and grading of all streets, avenues and roads, side and crosswalks, to ascertain and establish the grade and boundaries of all streets, public alleys, roads and sidewalks in said borough, and to authenticate any and all of said improvements by maps or otherwise; (a) *provided*, that the grade being thus established shall not be altered except by consent of the owners of two-thirds of the frontage affected by such alteration; for the regulating, paving, graveling, cleansing and keeping in repair the streets and roads, highways, alleys and crosswalks in such borough; for regulating the planting and protection of shade trees; for preventing or removing all obstructions, encroachments, cumbrances and nuisances, or any of them, from the streets, roads, highways, sidewalks, alleys, inclosures and lots in such borough; for ascertaining and establishing the boundaries of all streets, alleys and sidewalks in such borough; for causing the territory embraced within the boundaries of such borough to be accurately surveyed and mapped for roads, streets and avenues; for grading, paving, graveling and laying sidewalks in such borough; for preventing and removing all obstructions, impediments or nuisances on any street or street crossing caused by any railroad company or its agents; for preventing persons from riding and driving or passing over or upon the sidewalks, except when necessary to cross the same with horses, wagons, carts or carriages of any description; for lighting the streets and alleys in said borough; for preventing or regulating the running at large of horses, cattle, goats, geese, dogs and swine; for preventing the immoderate riding or driving through or in any street or alley of such borough; for preventing or suppressing any riots, routs, disturbances, breaches of the peace or disorderly assemblages in any street, alley, house or place in such borough; for the erection of fountains and statues, and for sinking and regulating pumps, wells and cisterns in the streets, parks, squares or inclosures of such borough; for the extinguishing of fires; for regulating fire engines, hose and truck companies; for regulating the keeping of gunpowder and other combustible or dangerous material; for the cleansing of chimneys and regulating the same; for appointing policemen, regular or special, watchmen and other subordinate officers, and prescribing their powers, duties and compensation; for establishing and regulating one or more public pounds; for restraining vagrants, mendicants and street beggars; for erecting, repairing and regulating a borough hall, borough jail and such other public buildings as may be necessary; for preserving peace and good order; for preventing and suppressing all gaming and disorderly houses; for regulating or preventing the carrying on of any trade, business or manufacture likely to promote or cause fire, or to endanger the health or well-being of the inhabitants of such borough; for the sewerage or drainage of such borough; for laying down iron, lead, glass, wood or other pipes for the conveyance of water or gas in the streets, highways, alleys and sidewalks of said borough, and for regulating the same; to provide for the erection and maintaining of gas and water works in such borough; for the suppression of vice and immorality; for the licensing of and regulating butchers, hawkers and hucksters, peddlers and petit hucksters; for licensing and regulating or prohibiting restaurants, bowling alleys, billiard saloons, oyster-houses and cellars; and the said council shall or may enact or pass such and so many other ordinances or by-laws for the peace, good government, order, well-being and convenience of such borough as they may deem necessary, proper and expedient, not repugnant to this act or the constitution of this state or of the United States.

Ordinances submitted to mayor for approval or veto.

Proceeding after veto.

**282. SEC. 16.** That every ordinance and every resolution of the council affecting the interests of the borough, shall, before it takes effect, be presented duly certified to the mayor, and the report of the clerk shall be conclusive evidence that the said ordinance or resolution has been so presented to the mayor; if he approves it he shall sign it, if not, he shall return it with

(a) Council under this act has no right to enter into a contract by which public moneys are to be expended and borough bonds are to be issued to pay for grading and filling a street, unless

such grading and filling have been directed to be done by ordinance. *Turner v. Brigantine*, 25 *Vr.* 478.

his objections, and file the same with the clerk within five days after he shall have received it, and the said council shall, at its first regular meeting thereafter, order the objections to be entered at large on its journal, and shall proceed to reconsider the same, and if three-fourths of all members shall pass the same it shall take effect as a law, but in every such case the vote shall be taken by ayes and noes and entered on the journal; and if such ordinance or resolution shall not be returned by the mayor within the time above specified, it shall become a law in like manner as if he had signed it; *provided*, that each and every ordinance and resolution so passed as aforesaid, shall be published for the space of two weeks, at least once in each week, in a newspaper printed in the county in which such borough is situate, before said ordinance or resolution shall go into effect; *provided also*, that no ordinance or by-law shall be enacted or passed by the said council, unless the same shall have been introduced before the said council at a previous meeting, and shall have been agreed to by a majority of said council, but said council may, by a three-fourths vote, put any such ordinance or by-law on its final passage on the same day which the same shall be introduced.

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Proviso.

**283.** SEC. 17. That the ordinances of such borough shall begin in the following style, viz.: "Be it enacted by the mayor and council of the borough of \_\_\_\_\_."

Enacting clause of ordinances.

**284.** SEC. 18. That it shall and may be lawful for the council of any borough incorporated under this act, to order and cause to be assessed and raised by tax every year such sum of money, not exceeding twenty mills on the dollar, as they shall deem expedient for the current expenses of such borough, and for all other objects and purposes authorized by this act, to be assessed and collected in the same manner as the assessors and collectors of townships are or may be by law required to assess and collect the state and county taxes, which taxes, when collected, shall be subject to the order of said council; and the said council may, from time to time, borrow such sum or sums of money, not exceeding ten mills on the dollar of the assessed value of the property in the borough in any one year, and then only for the purpose of anticipating the next year's taxes, in the corporate name of the borough, for all purposes for which they are authorized by this act to raise money by tax, as they deem necessary, and secure the payment thereof by bond or other instrument, under the common seal of the borough and signature of the mayor, attested by the clerk, and to provide by tax for the payment thereof within the ensuing year; *provided*, that no loan shall be made without the concurrence of a majority of all the members of said council.

Money for current expenses to be raised by tax not exceeding twenty mills on the dollar.

**285.** SEC. 19. That whenever hereafter a greater sum of money than the said sum of twenty mills on the dollar shall, in the opinion of said council, be necessary to be raised in any one year for the use of such borough, then and in such case the said council are hereby authorized to give notice to the property-holders of the borough by advertisement published in one newspaper, if any there be printed in the county in which said borough is situate, for at least two weeks, once in each week, before acting thereon, and by printed handbills put up in five of the most public places in such borough for a like period, stating the sum of money necessary to be raised and the purposes and uses for which such money is needed, and upon obtaining the written consent of persons representing one-half or more of the taxable property in said borough, as represented by the duplicates of the borough assessor for the previous year, said members of council may proceed to vote thereon; and every sum of money so voted by any resolution of said council to be raised by tax in said borough shall be assessed and collected the same as other taxes are assessed and collected.

Consent of property-holders to increase of moneys to be raised.

**286.** SEC. 20. That it shall and may be lawful for the said council to make and establish ordinances and regulations for the laying out, extending, opening, altering or widening of any street, road, highway or alley within the borough as they shall judge the public good requires, the same to be done only on the application in writing to the said council of at least

Proceedings for laying out streets, &amp;c.

ten property-holders of such borough; and there shall be three commissioners appointed by the said council immediately after the passage of any ordinance for the purpose aforesaid, who shall be in every case residents of such borough and entirely free from pecuniary interests in any houses or lands to be affected by assessments or awards by reason of any such laying out, opening, extending, altering or widening, and who, in laying out, opening, extending, altering or widening any street, road, highway or alley within such borough, shall perform like duties, and be subject to like requirements and penalties as the surveyors of the highways are now required to perform and are subject to by the law of the state concerning roads, and the law of this state is hereby made applicable in all such cases.

Fees and compensation of officers of boroughs.

**287. SEC. 21.** That the council of said borough shall have power by ordinance or resolution to grant or allow such fees or compensation to the several officers of said borough as to them shall seem necessary and proper; *provided*, that the mayor shall not receive a salary exceeding three hundred dollars per annum for the performance of his official duties, other than the fees which appertain to his office as a justice of the peace; that the members of council shall not be paid, directly or indirectly, any compensation for the performance of their official duties; the fees of the assessor and collector to be as now provided by law.

Council may impose fines and penalties for violation of ordinances.  
Mayor constituted a court of record.

**288. SEC. 22.** That the said council shall and may make and impose fines and penalties against all persons who shall offend against the by-laws and ordinances of said council; and the mayor of said borough is hereby constituted a court of record to take cognizance of all offenses against such by-laws and ordinances and punish all offenders against the same by fine not exceeding fifty dollars or imprisonment not exceeding thirty days in the jail of such borough or in the county jail or both, together with the costs of conviction; and it shall and may be lawful for the said mayor, on complaint made on oath or affirmation of an offense committed against the said by-laws and ordinances, and on conviction thereof to issue his warrant to the marshal or any policeman of said borough, commanding him, in case any offender or offenders be sentenced to imprisonment, to convey him, her or them to the jail aforesaid, there to remain until the term of imprisonment shall have expired and the costs of conviction shall be paid; and in case the offender or offenders shall be adjudged to pay a fine, then it shall and may be lawful for the said mayor to issue an execution to the borough marshal or any policeman of said borough, commanding him to levy and make such fine and costs of goods and chattels of said offender or offenders, and the said borough marshal or policeman is hereby authorized and required to execute the process aforesaid; that the jailer of the county in which such borough is situate shall receive and safely keep all such offenders as shall be committed to the jail of said county by the mayor of said borough for the term of his, her or their imprisonment as expressed in the warrant of commitment, and all the expenses of keeping said offenders in said jail shall be borne and paid by the county.

Taxes, by whom assessed and collected.

**289. SEC. 23.** That the assessor shall assess and the collector collect the taxes in the same manner as the assessors and collectors of townships in this state are required by law to assess and collect; and in case of the non-payment of taxes the said collector shall proceed to enforce the collection thereof as now required by law of township collectors in this state.

Meeting of commissioners of appeal.

Notice to be given.

**290. SEC. 24.** That the commissioners of appeal in cases of taxation shall meet annually on the fourth Tuesday of November, to hear and determine all complaints of unjust taxation; they shall sit from ten o'clock in the forenoon until five o'clock in the afternoon, or longer if found necessary to dispose of all cases submitted to them for consideration, and shall give public notice of the time and place of such intended meeting in any newspaper printed in the county, if any there be, at least ten days previous to such assembling, and by handbills posted in five of the most public places in said borough.

Duties and powers of the mayor.

**291. SEC. 25.** That it shall be the duty of the mayor of such borough to see that the laws of the state and the ordinances of the borough are faithfully executed in such borough, and to recommend to the council

such measures as he may deem necessary or expedient for the welfare of the borough; he shall maintain peace and good order in the borough, and shall have power to suppress all riots and tumultuous assemblies, and cause to be arrested on his view, without process or warrant, and to commit for trial all persons violating, or whom he has reason to believe have violated the laws of this state or the ordinances of the borough; he shall have authority, on complaint made to him on oath or affirmation, to cause any person or persons to be brought before him for any breach of the peace or violation of any law of this state committed within said borough, or for disturbing the public tranquility in the borough, and shall require such offender or offenders to enter into recognizance or commit them to the county jail to answer the charges before the county court; he shall be entitled to the same fees and possess the same power, authority and jurisdiction that is by law vested in justices of the peace of the several counties of this state in both civil and criminal causes; the borough marshal and policemen of said borough shall execute, anywhere in the county in which said borough is situated, all and every process issued by said mayor in pursuance of the authority conferred, and shall have power to arrest and take into custody, without warrant, any offender or offenders against the by-laws and ordinances of said borough, and to confine the said offender or offenders in a place provided by said council until a hearing can be had before the mayor or one of the justices of the peace of said county; *provided*, that such hearing shall be held within twenty-four hours, unless Sunday should intervene, and in such case within forty-eight hours after the arrest of the offender or offenders; that said borough marshal shall possess the same powers, take the same obligation, perform the same duties, be subject to the same penalties, and receive the same fees as any constable of any township in this state.

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**292.** SEC. 26. That it shall not be lawful for any person or persons to sell, within the corporate limits of any borough incorporated under this act, any spirituous or malt liquors in quantities less than five gallons without having first obtained a license therefor from the mayor and council of such borough, or a majority thereof in council convened, in whom shall by this act be vested the exclusive right and power of granting the same, and imposing such restrictions and penalties as they deem necessary in relation thereto; *provided, however*, that nothing in this section contained shall enable the borough councils of boroughs situate in counties of the first and second class to grant licenses for the sale of liquor.

Unlawful to sell spirituous or malt liquors without license.

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**293.** SEC. 27. That for the purpose of laying out, grading or improving the streets or sidewalks of any borough incorporated under this act, it shall and may be lawful for the council of said borough, upon obtaining the written consent of persons representing one-half or more of the value of the taxable property in said borough as represented by the duplicate of the borough assessor, to borrow such sum or sums of money, in the name of the borough, as may be necessary to carry out and complete the laying out, grading or improvement of any street or streets, sidewalk or sidewalks in said borough, and to secure the payment thereof by the issuing of bonds or other instruments, under the common seal of the borough and signature of the mayor, attested by the clerk; said bonds not to run for a longer period than twenty years from the date thereof, and to bear interest at a rate not exceeding the legal rate.

May borrow money for improvement of streets, &amp;c., and issue bonds therefor.

**294.** SEC. 28. That when the council of any borough shall issue bonds as herein provided, it shall and may be lawful for the said council to order and cause to be assessed and raised by tax every year such sum of money, in addition to other moneys to be raised by said borough, as may be requisite to pay the interest on said bonds and so much of the principal thereof as they may deem necessary and expedient, and to provide for the payment of said bonds when due; *provided*, the provisions of this act shall not be operative until the people of such borough shall vote on the issue of such bonds at the next municipal election to be held in such borough, and if a majority of the legal voters therein shall vote against such issue, then no such issue of bonds shall be made.

Interest, &amp;c., to be raised by tax.

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Council may cause brush to be removed from lots and holes to be filled up.  
Costs to be a lien on lots, and how collected.

Proviso.

Council to provide by ordinance for grading and graveling of streets.

Expense assessed upon property.

Assessments, how made.

Lands may be sold for payment of assessments.

Building lines to be established by ordinance.

Proviso.

Certain municipalities may accept provisions of this act.

Proviso.

Upon acceptance of this act former municipality dissolved.

**295. SEC. 29.** That the borough council of any borough incorporated under this act may, whenever they shall by ordinance declare it necessary, cause the brush and wild bushes to be removed from any lot in such borough, and may cause any uncovered hole or pit on any lot in such borough to be filled up, and the cost of such removal and filling shall be a lien upon such lot paramount to any other incumbrance except taxes, and may be collected, with costs of suit, by action of debt against the owner or owners of such lot in any court of competent jurisdiction, or if such owners or owner be non-resident, then by attachment; *provided, always,* that fifteen days' notice to the owner or owners of such lot shall be given before such removal or filling as aforesaid, which notice shall be in writing, under the signature of the mayor and seal of the borough, and shall recite such ordinance and request such owner or owners to remove such brush or fill such uncovered hole or pit within fifteen days.

**296. SEC. 30.** That the common council of all boroughs incorporated or organized under the provisions of this act shall have power, by ordinance, to provide for the grading and graveling of the streets in said borough in the following manner, viz., upon the majority of the property-owners on any street or avenue, or specified part thereof, making application to the borough council for the grading and graveling of any street or avenue, or specified part thereof, such council may authorize such street or avenue, or specified part thereof, to be graded and graveled in a specified manner and within a specified time; and if, at the end of the time so specified by such council, the owners of the property on such street or avenue, or part thereof, shall have neglected to grade and gravel the same, or any part thereof, it shall be lawful for such borough council to cause the same to be graded and graveled at the expense of such borough, and the costs of such grading and graveling may be assessed by such borough against each property adjoining such grading and graveling to the extent to which each of such properties is severally benefited by such grading and graveling.

**297. SEC. 31.** That the street committee of each such borough shall, upon the completion of any grading and graveling performed by such borough in pursuance of the preceding section, make an assessment of the several amounts which each of such adjoining properties have been benefited by such street improvement, and file such assessments with the clerk of such borough, whereupon the same shall become a lien upon the land so assessed; and if any such assessment shall remain unpaid by the owners of the land so assessed for the space of thirty days after the same is so filed with said borough clerk, it shall be lawful for such borough council to forthwith cause such lands to be sold for the payment of such assessments, in the same manner as land is now sold by law for taxes.

**298. SEC. 32.** That the borough councils of all boroughs incorporated, or hereafter to be incorporated, under the provisions of this act, shall have power, by ordinance, to regulate, establish and enforce the observance of building lines in their respective boroughs; *providing,* said act shall in no wise interfere with such building lines as may have heretofore been established.

**299. SEC. 33.** That it shall be lawful for the inhabitants of any portion of this state, embracing an area of not more than two square miles and taxable real estate of not less than one hundred thousand dollars, and within which area resides, during any portion of the year, a population of not less than two hundred, and which may now be subject to any existing form of municipal government, to accept of the provisions of this act and become subject to all the rights, privileges, powers and liabilities therein specified, by complying with the provisions and requirements of the first, second, third and fourth sections of this act; *provided,* that this section shall not be construed to permit the division of any existing municipality.

**300. SEC. 34.** That upon the acceptance by the inhabitants of any municipality in this state of the provisions of this act, or their incorporation hereunder, the former municipal corporation shall be dissolved, and

all the property and rights of property held by the former corporation shall instantly vest in the new corporation so created, and the new corporation so created shall be bound by and subject to all the agreements, contracts, obligations and liabilities of the former corporation, and all taxes and other municipal assessments of such dissolved corporation shall be enforced by such new corporation as if the same had been legally and properly assessed by the said new corporation.

Property rights vested in new corporation.

## Supplement.

Passed April 14, 1890. P. L. 1890, p. 251.

**301. SEC. 1.** That any borough incorporated under the provisions of the act to which this is a supplement, may extend its corporate boundaries in the following manner: upon a petition being presented to the borough council of such borough, setting forth the boundaries of the land so to be included within the limits of such borough, and signed by persons owning at least nine-tenths of the land described in said petition, and petitioning the borough council to extend the limits of said borough so as to include said land, the borough council may pass an ordinance enacting and ordaining that the boundaries of the borough shall be extended so that the land described in said petition may be included therein, which said ordinance shall set forth specifically the boundaries of the land so to be added to said borough.

Corporate boundaries, how extended.

**302. SEC. 2.** That after said ordinance shall have been passed, approved by the mayor of said borough, and advertised according to law, a copy of the same shall be forthwith transmitted by the borough clerk of such borough to the county clerk of the county in which such borough is situated, and also a copy of the same transmitted to the secretary of state; and upon said copies of said ordinance being filed in said offices of said county clerk and secretary of state, the land so set forth in said petition and ordinance shall form a part of said borough and become subject to all the laws and ordinances regulating and governing the same.

Copies of ordinances extending boundaries to be filed in offices of secretary of state and county clerk.

## Supplement.

Approved June 13, 1890. P. L. 1890, p. 446.

**303. SEC. 1.** [This section amended by Sec. 309, *post*.]

## Supplement.

Approved June 13, 1890. P. L. 1890, p. 447.

**304. SEC. 1.** That in event of any two or more persons who shall be candidates for the same office or offices provided for in section five [see Sec. 271, *ante*] of the act to which this is a supplement, receiving the highest and an equal number of votes, then and in such case it shall be the duty of any judge of the court of common pleas of the county in which the borough is situate, on petition presented to him signed by five freeholders of said borough, for that purpose, to appoint, in writing under his hand, a day when shall be held an election to fill said office or offices not filled at the last preceding election by reason of said tie vote; copies of said order shall be posted in five or more of the most public places in said borough at least ten days before said election, and published in one newspaper in said county, at least one week before said election.

New election to be held when candidates receive an equal number of votes.

Order for election to be published.

**305. SEC. 2.** That on the day appointed, notice thereof having been first given as provided in section one of this act, an election shall be held in said borough for the election of such officer or officers as were not elected at the last preceding election, by reason of the tie vote in the first section mentioned, and said election shall be conducted by the election officers who conducted the last preceding borough election, and in the same manner as borough elections are now conducted.

Election conducted by election officers conducting previous election.

**306. SEC. 3.** That it shall be the duty of the judge and inspectors of said election, at the closing of the polls, to canvass the votes cast and forth-

Judge and inspectors to canvass votes.

## BOROUGHES.

with certify the result, with the number of votes cast for each candidate, to the clerk of the county wherein said borough is situate, and shall also deliver a copy of said certificate, under their hands, to the clerk of the borough.

**An act to repeal an act entitled "An act for the formation and government of boroughs," approved March twelfth, one thousand eight hundred and ninety.**

P. L. 1891, p. 11.

Passed February 3, 1891.

Repealer.

**307. SEC. 1.** That an act entitled "An act for the formation and government of boroughs," approved March twelfth, one thousand eight hundred and ninety, be and the same is hereby repealed. [See Sec. 319, *post.*]

Boroughs in existence not affected.

**308. SEC. 2.** That this act shall not affect the validity and full legal force of any incorporation which may have been heretofore created under the provisions of the act to which this is a repealer, and which has duly elected its officers under the same. [See Sec. 320, *post.*]

**Amendatory act.**

P. L. 1891, p. 454.

Approved April 16, 1891.

**309. SEC. 1.** That section one [see Sec. 303, *ante*] of the supplement to which this is amendatory be and the same is hereby amended so as to read as follows:

Additional officers to be appointed by council.

[That in addition to the offices provided for in the act entitled "An act for the formation and government of boroughs," there may be appointed by the council one borough marshal, one surveyor, one solicitor and one superintendent of public roads, and such and so many policemen and other officers as shall be deemed necessary by said council, who shall hold office for such time and perform such duties as are or may be by law or ordinance of said council, not in conflict with law, provided for.]

Repealer.

**310. SEC. 2.** That all acts and parts of acts inconsistent with this act are hereby repealed, and that this act shall take effect immediately.

**Supplement.**

P. L. 1893, p. 163.

Approved March 9, 1893.

Bonds heretofore issued legalized.

**311. SEC. 1.** That no bonds heretofore issued by any borough under the act entitled "An act for the formation and government of boroughs," approved March twelfth, one thousand eight hundred and ninety, for the purpose of raising money to defray the expense of laying out, grading or improving any street or streets, sidewalk or sidewalks in said borough, shall be held invalid because the borough council has not passed an ordinance providing for such improvements, but that all such bonds heretofore issued pursuant to a resolution of the council of such borough, under the common seal and the signature of the mayor of such borough, and attested by the clerk thereof, shall have the same legal effect as though the act to which this is a supplement had been complied with in every particular; *provided, however,* that the work for the payment of which such bonds may have been so issued shall have been actually done and performed in conformity with such resolution.

Proviso.

**Supplement.**

P. L. 1893, p. 282.

Approved March 14, 1893.

Period to redeem of lands sold for taxes.

**312. SEC. 1.** That whenever, in any of the boroughs of this state heretofore incorporated under the provisions of the act to which this is a supplement, any real estate shall be sold for taxes under the provisions of section twenty-three [see Sec. 289, *ante*] of the said act, then and in every such case the owner of such lands shall have the period of two years in which to redeem the said lands, as now provided by law, and failing so to do within such time the same shall vest in the purchaser in fee-simple; *provided,* that the said owner shall have been notified of the sale of said lands and of his right to redeem the same, as now provided by law, by

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payment of arrears of taxes, interest and costs; which notice shall be in writing, signed by the purchaser or his agent and served personally on him if resident in the borough, or mailed to his last known address if non-resident, at least sixty days prior to the expiration of said period of two years.

**An act to provide for the changing of boundary lines to boroughs incorporated under an act entitled "An act for the formation and government of boroughs," approved March twelfth, one thousand eight hundred and ninety.**

Approved May 16, 1894.

P. L. 1894, p. 394.

**313. SEC. 1.** That all boroughs incorporated under an act entitled "An act for the formation and government of boroughs," approved the twelfth day of March, one thousand eight hundred and ninety, may by a majority vote of the legal voters as contained in the last registry list of such borough, at a special election to be called for that purpose, as hereinafter provided, change its boundaries; *provided, however*, that there shall be no bonded indebtedness existing against such borough at the time of making such change.

Boundaries may be changed by vote at a special election.

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**314. SEC. 2.** That the mayor and council shall, upon receiving a petition setting forth the boundaries so proposed to be changed, signed by at least twenty legal voters within said borough, direct the borough clerk to call a special election, to be held in some convenient place within said borough, by notice (written or printed) under his hand, which notice shall contain an accurate description of the boundaries as proposed to be changed, and shall state the object of the election to be to vote for or against the proposed change of boundaries, the time and place of holding the election, and the hours between which the polls shall be open, which notice shall be set up at least fifteen full days previous to said election, in five of the most public [ ] in said borough, and shall be published once in each week, for at least two weeks immediately preceding said election, in all the newspapers published in said borough (if any); if none, then in two newspapers printed and published in the county wherein the borough is situate for the same length of time.

Governing body on petition shall call special election.

Notice for shall describe boundaries, &c.

Notice shall be published in newspapers.

**315. SEC. 3.** That the mayor of the borough shall appoint, in writing, under his hand, a clerk and two inspectors of said election, who shall be legal voters within said borough, who before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation to faithfully perform their duties as such clerk and inspectors.

Mayor shall appoint election officers.

**316. SEC. 4.** That the polls shall be open from seven o'clock in the forenoon to seven o'clock in the afternoon, and the said election shall be conducted, as near as may be, in all respects as elections for members of the general assembly.

How election shall be conducted.

**317. SEC. 5.** That the ballots used at said election shall be either printed or written, and shall contain the words "for proposed change of boundaries" or "against proposed change of boundaries," as the case may be, and at the close of the polls, the said election officers shall proceed to canvass the votes cast, and shall certify the result in the same manner (as near as may be) as provided for at general elections, and if the result of said election shall be in favor of the proposed change of boundaries, then in that case, upon filing of said certificate of the result of said election, and upon filing the boundaries of said borough, as so changed, in the clerk's office of the circuit court of the county wherein the said borough is situate, the said boundaries so filed shall become the legal boundaries of said borough.

Form of ballots.

Election officers shall certify result.

**318. SEC. 6.** That all acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Repealer.

An act to repeal the first section of an act entitled "An act to repeal an act entitled 'An act for the formation and government of boroughs,' approved March twelfth, one thousand eight hundred and ninety," which first said act was passed February third, one thousand eight hundred and ninety-one.

P. L. 1895, p. 130.

Act repealed.

Approved February 26, 1895.

**319. SEC. 1.** That section one [see Sec. 307, *ante*] of an act entitled "An act to repeal an act entitled 'An act for the formation and government of boroughs,' approved March twelfth, one thousand eight hundred and ninety," which repealing act was passed February third, one thousand eight hundred and ninety-one, be and the same is hereby repealed.

#### An act concerning boroughs.

P. L. 1895, p. 163.

Ordinances and resolutions excepted from effect of repealer.

Approved March 5, 1895.

**320. SEC. 1.** That all ordinances and resolutions heretofore passed, and all acts and contracts done in its corporate capacity by any borough, or by any committee or officials thereof, the validity and full legal force of the incorporation of which borough, by the second section [see Sec. 308, *ante*] of an act entitled "An act to repeal an act entitled 'An act for the formation and government of boroughs,' approved March twelfth, one thousand eight hundred and ninety," which said act was passed February third, one thousand eight hundred and ninety-one, is excepted from the effect of said repealing act, are hereby ratified, confirmed and made as valid and effective as if said act of February third, one thousand eight hundred and ninety-one, had not been passed.

### III. Borough act of April 2d, 1891, with supplements.

#### An act for the formation and government of boroughs. (a)

P. L. 1891, p. 280.

Districts of two square miles, with population of 200, may be incorporated as boroughs.

Approved April 2, 1891.

**321. SEC. 1.** That the inhabitants of any district in this state, embracing an area of not more than two square miles and taxable real estate of the amount of not less than one hundred thousand dollars, and within which area resides, during any portion of the year, a population of not less [than] two hundred, may become a body politic and corporate, in fact and in law, whenever at a special election, to be called for the purpose, as hereinafter provided, it may be so decided by a majority of votes of the electors of said proposed borough who are qualified to vote at elections for state and township officers.

**322. SEC. 2.** [Amended by Sec. 385, *post*.]

**323. SEC. 3.** That before any such judge make an order for the special election provided for in the preceding section the petitioners or some of them shall prove to the satisfaction of the judge to whom such petition may be presented that public notice has been given of the intention to present such petition by publication for at least two weeks, once in each week, in a newspaper circulating in the limits of the proposed borough, and also by posting in at least ten public places within the same limits a copy of said notice, which notice shall state briefly the time and place when and where the petition is to be presented, and the boundaries of the proposed borough.

**324. SEC. 4.** [Amended by Sec. 386, *post*.]

**325. SEC. 5.** That the said judge shall appoint by writing, under his hand, a clerk and two inspectors of said election, who shall be freeholders and legal voters in the said proposed borough, and who shall hold and conduct the election aforesaid at the time and place specified in the said notice; the polls shall open and close at the same hours as at general elections in this state, and the election shall be conducted, as nearly as may

Proof of posting and publication of notice.

Appointment of election officers.

Opening and closing of polls.

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be, in like manner as general elections are conducted; the ballots cast shall contain the words "for incorporation" or "against incorporation," as the case may be; at the close of the polls the said clerk and inspectors shall canvass the votes cast, and if the majority of said votes shall be for incorporation they shall forthwith certify the result of said election, and the number of votes cast for and against, under their hands, to the clerk of the county wherein said borough is situated, to be filed in his office, and from the time of filing said certificate in the office of the clerk of the county aforesaid, the inhabitants of said borough shall be a body corporate, in fact and in law, under the name of "the mayor and council of the borough of——," and by said name shall have perpetual succession, sue and be sued, prosecute and defend in all courts of law and equity in this state, have a common seal and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of said borough.

**326.** SEC. 6. That on the second Tuesday next after the filing of the certificate of the result of the election aforesaid in the office of the clerk of the county, the legal voters of said borough shall assemble at the place where the election provided for in the next preceding section was held, at the hour of seven o'clock in the forenoon, and those so assembled may, by a viva voce vote, proceed to elect a judge and two inspectors to conduct the election for the officers hereinafter named, which said judge and inspectors, having first taken and subscribed an oath or affirmation honestly and impartially to hold and conduct said election, shall forthwith open the polls for the election of officers hereinafter mentioned; and the said election shall be by ballot, and shall be conducted in the same manner as elections for members of the legislature are conducted; the persons voting at said election shall be those who are qualified to vote at elections for members of the legislature in the townships wherein said borough is situated; the polls shall remain open until seven o'clock in the evening, and at the closing of the polls the judge and inspectors holding said election shall canvass the votes cast and certify the result, with the number of votes cast for each candidate, to the clerk of the county wherein said borough is situated, and shall also deliver a copy of said certificate, under their hands, to the clerk of the borough.

**327.** SEC. 7. That there shall be chosen at such election one mayor, who shall be keeper of the borough seal, and hold his office for two years; four members of council, which mayor and members of council shall be one body corporate and politic in deed, fact, name and law, by the name, style and title of the mayor and council of the borough of ——; and also a borough clerk (who shall perform all the duties required by law of the clerks of townships, not inconsistent with the provisions of this act), one assessor, one collector (who shall be borough treasurer), three commissioners of appeal in cases of taxation, one judge and two inspectors of election and one poundkeeper, who shall hold office for such term as is now or shall hereafter be provided for similar officers in townships; *provided*, that at the first meeting of the council after the first election held under this act, the members of council shall divide themselves by lot, into two classes; the term of the first class shall be vacated at the expiration of the first year, the term of the second class at the expiration of the second year, so that two members of council shall be elected annually after the first election, to hold their office for two years; and if vacancies happen, by resignation or otherwise, the person or persons elected to supply such vacancies shall be elected for the unexpired term only.

**328.** SEC. 8. That there shall be held annually after such election on the second Tuesday in March, in each and every year, an election in said borough for such of the officers named in the next preceding section whose term of office shall have expired or whose office may have become vacant, and such annual election shall be subject to the laws regulating township elections.

**329.** SEC. 9. [Amended by Sec. 405, *post.*]

Ballots.

Result of election to be certified.

Corporate name.

First election after incorporation, when and how held.

Who entitled to vote.

Canvassing vote and certifying result.

Officers and terms of office.

Proviso.

Annual borough election.

Result of election and certificate of boundaries to be filed.

**330. SEC. 10.** That within twenty days after the first or any subsequent election changing the boundaries or annexing additional territory to the original borough held under this act, the clerk shall publish the result of such election, and shall file an official certification of such election, and the boundaries decided upon, in the offices of the secretary of state and of the clerk of the county in which such borough is situate, which certificate shall be signed by three of the members of council elected.

Officers to take oath.

**331. SEC. 11.** That all officers elected or appointed by virtue of this act shall, within twenty days after their election or appointment, and before entering upon the discharge of the duties of their offices, take and subscribe, before some person duly authorized by law for such purpose, an oath or affirmation faithfully and impartially to discharge the duties of their respective offices, and upon neglecting to do so the said offices shall be deemed and declared vacant; all such oaths or affirmations shall be filed in the office of the clerk.

Officers required to give bonds.

**332. SEC. 12.** That such officers as the council shall require, shall, before they enter upon the duties of their offices, give bonds to the borough in its corporate name in such sums and with such sureties as the said council may require and approve for the faithful performance of their duties. (a)

Annual meetings of mayor and council to be held.

**333. SEC. 13.** That the mayor and members of council of such borough shall constitute the council thereof, and shall hold an annual meeting therein on the next Tuesday after the annual election yearly and every year, and such other meetings as they shall by ordinance direct and appoint; the mayor shall preside at such meetings and have a vote only in such cases where there is a tie, and in the absence of the mayor the members of council shall appoint one of their number to preside pro tempore; and when met, said council shall have power to make and adopt such ordinances, rules, by-laws and regulations, and in general to do and perform all such other acts as are provided for and warranted by this act; and that three members shall constitute a quorum of said council; and it shall be the duty of the mayor, when necessary, to call special meetings of said council, and in case of his neglect or refusal, then it shall be lawful for any three members of said council, at such time and place in said borough as they may designate, to call any special meeting or meetings by written or printed notices, and in all cases of special meetings notice shall be given to all the members of said council in person or left at their place of residence.

To adopt ordinances, &c.

Quorum.  
Special meetings.

Vacancies in office, how filled.

**334. SEC. 14.** That in case of vacancy happening in any office created and made elective by this act, by death, resignation, removal or otherwise, except in officers of election on the day of election, it shall be filled by said council at their next meeting thereafter, and the said appointment shall continue until the next annual election and no longer; and the person or persons appointed to fill such vacancies shall be entitled to the like compensation and be subject to the same responsibilities and penalties as if elected at the annual election as aforesaid.

Duties of borough officers.

**335. SEC. 15.** That the borough clerk, judge and inspectors of elections, collector, assessor, commissioners of appeal and poundkeeper, shall respectively possess the powers and perform the duties of like officers in any township of this state, so far as shall be consistent with the provisions of this act; and in addition the said borough clerk shall attend all meetings of the council of said borough, keep accurate minutes of their proceedings, and record the same in a book to be provided for that purpose, and in like manner record all ordinances passed by the council, and shall do and perform all such other duties as the said council may, from time to time, prescribe; and the power and duties of the treasurer of said borough shall be the same as collectors of townships of this state, and such other powers and duties as are provided for in this act, or shall be enjoined by the ordinances of said council.

Duties of borough collector or treasurer.

**336. SEC. 16.** That it shall be the duty of the collector, who shall be borough treasurer, to receive, collect and pay out all moneys due or belong-

(a) See *Harkley v. Cape May Point*, 26 Vr. 104.

ing to said borough, whether for taxes, assessments, arrears of taxes or otherwise, and safely keep and disburse the same under the direction of the council, and shall pay out the same only upon the warrant of said council, signed by the mayor and countersigned by the clerk, and no warrant on the borough treasurer shall be authorized except in pursuance of an order of said council passed at a stated meeting and entered on their minutes; and such warrant shall be made and numbered payable to the order of the person or persons to receive the same, and shall specify for what purpose the amount therein mentioned is directed to be paid; the said treasurer shall keep a record of the proceedings affecting the revenue of said borough, and shall make out annually on the first Tuesday in March, or oftener should the council require, and publish in a newspaper printed in the county in which said borough is situate, if any there be, a detailed and true statement of all moneys received into the treasury, and of all moneys disbursed therefrom from the commencement of his official year to the date aforesaid, and file a copy with the borough clerk.

Treasurer to make and publish statement annually.

**337. SEC. 17.** That the said council shall have power to pass, enforce, alter and repeal ordinances to take effect within said borough for the following purposes, viz.: to lay out, open, widen, vacate, alter, grade, fill up, straighten, extend, clean, repair, refill, establish, alter and regulate the grade and grading of all streets, avenues and roads, side and crosswalks, to ascertain and establish the grade and boundaries of all streets, public alleys, roads and sidewalks in said borough, and to authenticate any and all of said improvements by maps or otherwise; *provided*, that the grade being thus established shall not be altered except by consent of the owners of two-thirds of the frontage affected by such alteration; for the regulating, paving, graveling, cleansing and keeping in repair the streets and roads, highways, alleys and crosswalks in such borough; for regulating the planting and protection of shade trees, for preventing or removing all obstructions, encroachments, cumbrances and nuisances, or any of them, from the streets, roads, highways, sidewalks, alleys, inclosures and lots in such borough; for ascertaining and establishing the boundaries of all streets, alleys and sidewalks in such borough; for causing the territory embraced within the boundaries of such borough to be accurately surveyed and mapped for roads, streets and avenues; for grading, paving, graveling and laying sidewalks in such borough; for preventing and removing all obstructions, impediments or nuisances on any street or street crossing caused by any railroad company or its agents; for preventing persons from riding and driving or passing over or upon the sidewalks, except when necessary to cross the same with horses, wagons, carts or carriages of any description; for lighting the streets and alleys in said borough; for preventing or regulating the running at large of horses, cattle, goats, geese, dogs and swine; for preventing the immoderate riding or driving through or in any street or alley of such borough; for preventing or suppressing any riots, routs, disturbances, breaches of the peace or disorderly assemblages in any street, alley, house or place in such borough; for the erection of fountains and statues, and for sinking and regulating pumps, wells and cisterns in the streets, parks, squares or inclosures of such borough; for the extinguishing of fires; for regulating fire engines, hose and truck companies; for regulating the keeping of gunpowder and other combustible or dangerous material; for the cleansing of chimneys and regulating the same; for appointing policemen, regular or special, watchmen and other subordinate officers, and prescribing their powers, duties and compensation; for establishing and regulating one or more public pounds; for restraining vagrants, mendicants and street beggars; for erecting, repairing and regulating a borough hall, borough jail and such other public buildings as may be necessary; for preserving peace and good order; for preventing and suppressing all gaming and disorderly houses; for regulating or preventing the carrying on of any trade, business or manufacture likely to promote or cause fire, or to endanger the health or well-being of the inhabitants of such borough; for the sewerage or drainage of such borough; for laying down iron, lead, glass, wood or other pipes for the conveyance of water or

Council authorized to pass ordinances, &c.

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gas in the streets, highways, alleys and sidewalks of said borough, and for regulating the same; to provide for the erection and maintaining of gas and water works in such borough; for the suppression of vice and immorality; for the licensing of and regulating butchers, hawkers and hucksters, peddlers and petit hucksters; *provided*, that no ordinance shall be enacted preventing wholesale dealers from selling and delivering their goods to storekeepers or other places of business; for licensing and regulating or prohibiting restaurants, bowling alleys, billiard saloons, oyster-houses and cellars; and the said council shall or may enact or pass such and so many other ordinances or by-laws for the peace, good government, order, well-being and convenience of such borough as they may deem necessary, proper and expedient, not repugnant to this act or to the constitution of this state or of the United States.

Proviso.

Ordinances submitted to mayor for approval or veto.

**338. SEC. 18.** That every ordinance and every resolution of the council affecting the interests of the borough shall, before it takes effect, be presented duly certified to the mayor, and the report of the clerk shall be conclusive evidence that the said ordinance or resolution has been so presented to the mayor; if he approves it he shall sign it, if not, he shall return it with his objections, and file the same with the clerk within five days after he shall have received it, and the said council shall, at its first regular meeting thereafter, order the objections to be entered at large on its journal, and shall proceed to reconsider the same, and if three-fourths of all members shall pass the same it shall take effect as a law, but in every such case the vote shall be taken by ayes and noes and entered on the journal; and if such ordinance or resolution shall not be returned by the mayor within the time above specified, it shall become a law in like manner as if he had signed it; *provided*, that each and every ordinance and resolution so passed as aforesaid shall be published for the space of two weeks, at least once in each week, in a newspaper printed in the county in which such borough is situate, before said ordinance or resolution shall go into effect; *provided also*, that no ordinance or by-law shall be enacted or passed by the said council unless the same shall have been introduced before the said council at a previous meeting, and shall have been agreed to by a majority of said council, but said council may, by a three-fourths vote, put any such ordinance or by-law on its final passage on the same day which the same shall be introduced.

Proviso.

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Enacting clause to ordinances.

**339. SEC. 19.** That the ordinances of such borough shall begin in the following style, viz.: "Be it enacted by the mayor and council of the borough of \_\_\_\_\_."

Money for borough expenses, how raised and collected.

**340. SEC. 20.** That it shall and may be lawful for the council of any borough incorporated under the act, to order and cause to be assessed and raised by tax every year such sum of money, not exceeding twenty mills on the dollar, as they shall deem expedient for the current expenses of such borough, and for all other objects and purposes authorized by this act, to be assessed and collected in the same manner as the assessors and collectors of townships are or may be [by] law required to assess and collect the state and county taxes, which taxes, when collected, shall be subject to the order of said council; and the said council may, from time to time, borrow such sum or sums of money, not exceeding ten mills on the dollar of the assessed value of the property in the borough in any one year, and then only for the purpose of anticipating the next year's taxes, in the corporate name of the borough, for all purposes for which they are authorized by this act to raise money by tax, as they deem necessary, and secure the payment thereof by bond or other instrument, under the common seal of the borough and signature of the mayor, attested by the clerk, and to provide by tax for the payment thereof within the ensuing year; *provided*, that no loan shall be made without the concurrence of a majority of all the members of said council.

Council may borrow money, &c.

Proviso.

Proceedings for street improvements, &c.

**341. SEC. 21.** [Amended by Sec. 357, *post*.]  
**342. SEC. 22.** That it shall and may be lawful for the said council to make and establish ordinances and regulations for the laying out, extending, opening, altering or widening of any street, road, highway or alley

within the borough as they shall judge the public good requires, the same to be done only on the application in writing to the said council of at least ten property-holders of such borough; and there shall be three commissioners appointed by the said council immediately after the passage of any ordinance for the purpose aforesaid, who shall be in every case residents of such borough and entirely free from pecuniary interests in any houses or lands to be affected by assessments or awards by reason of any such laying out, opening, extending, altering or widening, and who, in laying out, opening, extending, altering or widening any street, road, highway or alley within such borough, shall perform like duties and be subject to like requirements and penalties as the surveyors of the highways are now required to perform and are subject to by the law of the state concerning roads, and the law of this state is hereby made applicable in all such cases.

**343. SEC. 23.** That the council of said borough shall have power by ordinance or resolution to grant or allow such fees or compensation to the several officers of said borough as to them shall seem necessary and proper; *provided*, that the mayor shall not receive a salary exceeding three hundred dollars per annum for the performance of his official duties, other than the fees which appertain to his office as a justice of the peace; that the members of council shall not be paid, directly or indirectly, any compensation for the performance of their official duties; the fees of the assessor and collector to be as now provided by law.

Fees or compensation of officers of boroughs.

Proviso.

**344. SEC. 24.** That the said council shall and may make and impose fines and penalties against all persons who shall offend against the by-laws and ordinances of said council; and the mayor of said borough is hereby constituted a court of record to take cognizance of all offenses against such by-laws and ordinances and punish all offenders against the same by fine not exceeding fifty dollars or imprisonment not exceeding thirty days in the jail of such borough or in the county jail, or both, together with the costs of conviction; and it shall and may be lawful for the said mayor, on complaint made on oath or affirmation of an offense committed against the said by-laws and ordinances, and on conviction thereof to issue his warrant to the marshal or any policeman of said borough, commanding him, in case any offender or offenders be sentenced to imprisonment, to convey him, her or them to the jail aforesaid, there to remain until the term of imprisonment shall have expired and the costs of conviction shall be paid; and in case the offender or offenders shall be adjudged to pay a fine, then it shall and may be lawful for the said mayor to issue an execution to the borough marshal or any policeman of said borough, commanding him to levy and make such fine and costs of goods and chattels of such offender or offenders, and the said borough marshal or policeman is hereby authorized and required to execute the process aforesaid; that the jailer of the county in which such borough is situate shall receive and safely keep all such offenders as shall be committed to the jail of said county by the mayor of said borough for the term of his, her or their imprisonment as expressed in the warrant of commitment, and all the expenses of keeping said offenders in said jail shall be borne and paid by the county.

Council may impose fines and penalties for violation of ordinances.

Mayor constituted a court of record.

**345. SEC. 25.** That the assessor shall assess and the collector collect the taxes in the same manner as the assessors and collectors of townships in this state are required by law to assess and collect; and in case of the non-payment of taxes the said collector shall proceed to enforce the collection thereof as now required by law of township collectors in this state.

Taxes, by whom assessed and collected.

**346. SEC. 26.** That the commissioners of appeal in cases of taxation shall meet annually on the fourth Tuesday of November to hear and determine all complaints of unjust taxation; they shall sit from ten o'clock in the forenoon until five o'clock in the afternoon, or longer if found necessary to dispose of all cases submitted to them for consideration, and shall give public notice of the time and place of such intended meeting in any newspaper printed in the county, if any there be, at least ten days previous to such assembling, and by handbills posted in five of the most public places in said borough.

Meeting of commissioners of appeal.

Notice to be given.

Duties and powers  
of the mayor.

**347. SEC. 27.** That it shall be the duty of the mayor of such borough to see that the laws of the state and the ordinances of the borough are faithfully executed in such borough, and to recommend to the council such measures as he may deem necessary or expedient for the welfare of the borough; he shall maintain peace and good order in the borough, and shall have power to suppress all riots and tumultuous assemblies, and cause to be arrested on his view, without process or warrant, and to commit for trial all persons violating, or whom he has reason to believe have violated the laws of this state or the ordinances of the borough; he shall have authority, on complaint made to him on oath or affirmation, to cause any person or persons to be brought before him for any breach of the peace or violation of any law of this state committed within said borough, or for disturbing the public tranquillity in the borough, and shall require such offender or offenders to enter into recognizance or commit them to the county jail to answer the charges before the county court; he shall be entitled to the same fees and possess the same power, authority and jurisdiction that is by law vested in justices of the peace of the several counties of this state in both civil and criminal causes; the borough marshal and policemen of said borough shall execute, anywhere in the county in which said borough is situated, all and every process issued by said mayor in pursuance of the authority conferred, and shall have power to arrest and take into custody, without warrant, any offender or offenders against the by-laws and ordinances of said borough, and to confine the said offender or offenders in a place provided by said council until a hearing can be had before the mayor or one of the justices of the peace of said county; *provided*, that such hearing shall be held within twenty-four hours, unless Sunday should intervene, and in such case within forty-eight hours after the arrest of the offender or offenders; that said borough marshal shall possess the same powers, take the same obligation, perform the same duties, be subject to the same penalties, and receive the same fees as any constable of any township in this state.

Proviso.

Council to provide by ordinance for grading and improving streets or extinguishment of fires.

**348. SEC. 28.** That for the purpose of laying out, grading or improving the streets or sidewalks of any borough incorporated under this act, or for the extinguishment of fires, it shall and may be lawful for the council of said borough, upon obtaining the written consent of persons representing one-half or more of the value of the taxable property in said borough as represented by the duplicate of the borough assessor, to borrow such sum or sums of money, in the name of the borough, as may be necessary to carry out and complete the laying out, grading or improvement of any streets, sidewalk or sidewalks in said borough, or for the extinguishment of fires, and to secure the payment thereof by the issuing of bonds or other instruments, under the common seal of the borough and signature of the mayor, attested by the clerk; said bonds not to run for a longer period than twenty years from the date thereof, and to bear interest at a rate not exceeding the legal rate.

Bonds to be issued.

Bonds to be paid by tax.

**349. SEC. 29.** That when the council of any borough shall issue bonds as herein provided, it shall and may be lawful for the said council to order and cause to be assessed and raised by tax every year such sum of money, in addition to other moneys to be raised by said borough, as may be requisite to pay the interest on said bonds and so much of the principal thereof as they may deem necessary and expedient, and to provide for the payment of said bonds when due; *provided*, the provisions of this act shall not be operative until the people of such borough shall vote on the issue of such bonds at the next municipal election to be held in such borough, and if a majority of the legal voters therein shall vote against such issue, then no such issue of bonds shall be made.

Act remains inoperative until a vote is had.

Council may cause brush to be removed from lots and holes to be filled up.

Costs to be a lien on lots, and how collected.

**350. SEC. 30.** That the borough council of any borough incorporated under this act may, whenever they shall by ordinance declare it necessary, cause the brush and wild bushes to be removed from any lot in such borough, and may cause any uncovered hole or pit on any lot in such borough to be filled up, and the cost of such removal and filling shall be a lien upon such lot paramount to any other incumbrance except taxes, and may

be collected, with costs of suit, by action of debt against the owner or owners of such lot in any court of competent jurisdiction, or if such owner or owners be non-resident, then by attachment; *provided always*, that fifteen days' notice to the owner or owners of such lot shall be given before such removal or filling as aforesaid, which notice shall be in writing, under the signature of the mayor and seal of the borough, and shall recite such ordinance and request such owner or owners to remove such brush or fill such uncovered hole or pit within fifteen days.

Proviso.

**351. SEC. 31.** That the common council of all boroughs incorporated or organized under the provisions of this act shall have power, by ordinance, to provide for the grading and graveling of the streets in said borough in the following manner, viz.: upon the majority of the property-owners on any street or avenue, or specified part thereof, making application to the borough council for the grading and graveling of any street or avenue, or specified part thereof, such council may authorize such street or avenue, or specified part thereof, to be graded and graveled in a specified manner and within a specified time; and if, at the end of the time so specified by such council, the owners of the property on such street or avenue, or part thereof, shall have neglected to grade and gravel the same, or any part thereof, it shall be lawful for such borough council to cause the same to be graded and graveled at the expense of such borough, and the costs of such grading and graveling may be assessed by such borough against each property adjoining such grading and graveling to the extent to which each of such properties is severally benefited by such grading and graveling.

Council to provide by ordinance for grading and graveling of streets.

Expense assessed upon property.

**352. SEC. 32.** That the street committee of each of such boroughs shall, upon the completion of any grading and graveling performed by such borough in pursuance of the preceding section, make an assessment of the several amounts which each of such adjoining properties have been benefited by such street improvement, and file such assessments with the clerk of such borough, whereupon the same shall become a lien upon the land so assessed; and if any such assessment shall remain unpaid by the owners of the land so assessed for the space of thirty days after the same is so filed with said borough clerk, it shall be lawful for such borough council to forthwith cause such lands to be sold for the payment of such assessments, in the same manner as land is now sold by law for taxes.

Assessments, how made.

Lands may be sold for payment of assessments.

**353. SEC. 33.** That the borough councils of all boroughs incorporated, or hereafter to be incorporated, under the provisions of this act, shall have power, by ordinance, to regulate, establish and enforce the observance of building lines in their respective boroughs; *providing*, said act shall in no wise interfere with such building lines as may have heretofore been established.

Building lines to be established by ordinance.

Proviso.

**354. SEC. 34.** That it shall be lawful for the inhabitants of any portion of this state, embracing an area of not more than two square miles and taxable real estate of not less than one hundred thousand dollars, and within which area resides, during any portion of the year, a population of not less than two hundred, and which may now be subject to any existing form of municipal government, to accept of the provisions of this act and become subject to all the rights, privileges, powers and liabilities therein specified, by complying with the provisions and requirements of the first, second, third and fourth sections of this act; *provided*, that this section shall not be construed to permit the division of any existing municipality.

Certain municipalities may accept provisions of this act.

Proviso.

**355. SEC. 35.** That upon the acceptance by the inhabitants of any municipality in this state which now exists or any which has heretofore existed and whose corporate existence has hitherto lapsed or been invalidated by any judicial decision or otherwise, of the provisions of this act, or their incorporation hereunder, the former municipal corporation shall be dissolved, and all the property and rights of property held by the former corporation shall instantly vest in the new corporation so created, and the new corporation so created shall be bound by and subject to all the agreements, contracts, obligations and liabilities of the former corporation, and all taxes and other municipal assessments of such dissolved corpora-

Upon acceptance of this act former municipality dissolved.

Property, rights vested in new corporation.

tion shall be enforced by such new corporation as if the same had been legally and properly assessed by the said new corporation.

**356.** SEC. 36. [Amended by Sec. 381, *post.*]

Supplement.

P. L. 1892, p. 302.

Approved March 28, 1892.

**357.** SEC. 1. That the twenty-first section of the act to which this is a supplement [see Sec. 341, *ante*] be and the same is hereby amended so as to read as follows :

Consent of prop-  
erty-holders to  
increase of  
moneys to be  
raised.

[That whenever hereafter a greater sum of money than the said sum of twenty mills on the dollar shall, in the opinion of said council, be necessary to be raised in any one year for the use of such borough, then and in such case the said council are hereby authorized to give notice to the property-holders of the borough, by advertisement published in one newspaper, if any there be, printed in the county in which such borough is situate, for at least two weeks, once in each week, before acting thereon, and by printed handbills put up in five of the most public places in such borough for a like period, stating the sum of money necessary to be raised and the purposes and uses for which such money is needed ; and upon obtaining the written consent of persons representing one-half or more of the taxable property in said borough, as represented by the duplicates of the borough assessor for the previous year, said members of council may proceed to vote thereon ; and every sum of money so voted by any resolution of said council to be raised by a tax in said borough, shall be assessed and collected the same as other taxes are assessed and collected ; *provided, always,* that whenever council shall, by a unanimous vote, declare any sum not exceeding three thousand dollars in any one year, to be necessary for the repairing or maintaining of the beach front, such sum so voted upon shall be assessed and collected in the same manner that the other taxes are assessed and collected, and said council may, if by a unanimous vote they declare it necessary, borrow such sum in anticipation of its assessments and collection, giving therefor such bond or bonds as they are hereinbefore authorized to issue.]

Repealer.

**358.** SEC. 2. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

P. L. 1892, p. 388.

Approved April 4, 1892.

Powers and duties  
of assessors in  
boroughs.

**359.** SEC. 1. That in all boroughs which are or hereafter may be incorporated under the act to which this act is a supplement, the assessors shall, within said boroughs, possess the like powers and perform the like duties as assessors of the several townships of this state, and they shall, on or before the third Tuesday of August in each year, deliver the duplicate of such assessment to the mayor and council for revision, addition and correction, as provided by law, and said assessor shall be a member of the county board of assessors of the county within which said borough is situated.

Powers and duties  
of collectors.

**360.** SEC. 2. That the collector within the limits of said borough, shall possess and perform the like powers and duties as the collectors of the several townships in this state, and in addition thereto he shall collect, have, hold and receive all moneys assessed or raised by taxation or assessment for any and all purposes within the borough, and also all fees for licenses, fines, penalties and other moneys in any way belonging to the borough, and which said taxes, assessments and moneys of every kind and nature, except only school moneys, shall be held by said collector and be paid out by him only upon the warrant of the mayor and council, signed by the mayor, attested by the borough clerk with the corporate seal affixed, which said warrant shall, among other things, state the fund against which drawn, and be dated the day upon which the same was ordered issued by the mayor and council ; *provided, however,* that it

Proviso.

shall not be lawful for the mayor and council to order warrants drawn on the collector except at a regular meeting or an adjourned regular meeting, and that all meetings of the mayor and council shall be held within the borough.

**361. SEC. 3.** That there shall be apportioned to the borough by the proper officers, of which the borough assessor shall be one, in the manner provided by the act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, and the various supplements thereto, the just proportion of the state and county taxes to be raised within the borough, which tax shall be assessed and collected by the borough assessor and collector, respectively, and shall be paid to the county collector by the borough collector under the warrant of the mayor and council.

Taxes, how assessed and collected and to whom paid.

**362. SEC. 4.** That the school taxes to be levied, assessed, and collected, within said borough, shall be levied, assessed and collected by the borough assessor and collector, respectively, and said collector shall receive and hold the school moneys so collected, within said borough, in trust, to be paid out on the order of the district clerk or treasurer of the school district, or school borough, in the manner provided by the act entitled "An act to establish a system of public instruction," approved March twenty-seventh, one thousand eight hundred and seventy-four.

Assessment and collection of school tax.

**363. SEC. 5.** That all taxes shall be and become due and payable on the day, in each year, fixed by law in the county wherein such borough is situated, and that in case any taxes so assessed or levied upon or on account of any real estate, shall be and remain due, unpaid and in arrear, for the space of six months after such day, then and in that case it shall be the duty of the mayor and council to cause the same to be collected by issuing their warrant to the borough collector for the sale of the lands or real estate on account of which such taxes were so levied and assessed, in the same manner and to the same effect, in all things, as provided in and by an act entitled "A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine, and the several supplements thereto.

When taxes shall become due.

Collection, how enforced.

**364. SEC. 6.** That all acts and parts of acts, both general and special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

#### Supplement.

Approved February 28, 1893.

P. L. 1893, p. 65.

**365. SEC. 1.** That whenever a majority of the legal voters of any borough incorporated under the provisions of the act to which this act is a supplement, voting at a special election held for the purpose, pursuant to the provisions of any law of this state, shall or may hereafter have authorized the issue of "improvement bonds" for the construction of a system of water works and a sewage system, or any other public improvement for said borough, it shall and may be lawful for the mayor and council of said borough to issue bonds of the said borough, under the signature of the mayor and borough clerk, with the corporate seal affixed, to be styled "improvement bonds."

When mayor and council may issue improvement bonds.

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29V-294

**366. SEC. 2.** That the aggregate amount of the "improvement bonds," authorized by section one of this supplementary act, shall not at any time exceed ten per centum of the amount of the assessed valuation of the property in the said borough, as shown by the assessor's duplicate for the preceding year; and the said bonds shall be issued in such sums, payable at such time or times, not longer than twenty years, and bear interest, payable semi-annually, at a rate not exceeding six per centum per annum, as the mayor and council of said borough shall by ordinance direct.

Amount of improvement bonds not to exceed ten per centum of assessed valuation shown by assessor's duplicate.

**367. SEC. 3.** That the said bonds hereby authorized shall be negotiated or sold at public or private sale, at not less than the par or the face value thereof, and the proceeds of said bonds shall be appropriated, by the

Bonds to be sold at not less than par value.

## BOROUGHES.

mayor and council of said borough, only to the payment and cancellation of such indebtedness as shall or may be incurred for and in the erection and construction of the said system of water works and sewage system of said borough, and for such other necessary public improvements as shall be within the powers of the mayor and council of said borough, by virtue of the provisions of the act to which this act is a supplement, or such other and further acts applicable thereto as may be now or hereafter enacted.

Repealer.

**368.** SEC. 4. That all acts or parts of acts, inconsistent with this act, be and the same are hereby repealed, and this act shall take effect immediately.

## Supplement.

Approved March 7, 1893.

P. L. 1893, p. 103.

Preamble.

WHEREAS, Boroughs incorporated under the above-mentioned act are empowered by said act to provide for the sewerage and drainage of such boroughs, but said act does not sufficiently set forth and define a manner of procedure for the exercise of the power so conferred by said act; now, therefore,

Council may pass resolution of intention to cause sewers and drains to be constructed on petition of owners of property.

**369.** SEC. 1. That whenever a petition in writing of any owner or owners of property interested shall be presented to the council of any borough asking for the construction of a sewer or sewers, drain or drains in such borough, the council of such borough may pass a resolution declaring its intention to cause such sewer or sewers, drain or drains to be constructed, and the said council shall cause public notice of such intention to be given by publishing the said notice of intention in a newspaper printed in the county for the space of two weeks, at least once in each week, briefly describing the character and location of the proposed work, and requesting such persons as may object thereto to present objections in writing to the clerk of the borough at or before the expiration of ten days from the date of such notice of intention, and if persons owning or representing more than one-half of the lineal feet of the land in front of which said proposed sewer or sewers, drain or drains is or are to be constructed shall so present their objections in writing, then such proceedings shall cease; but otherwise, and after the expiration of said ten days, it shall be lawful for such council to pass an ordinance for the construction of such sewer or sewers, drain or drains or such part or parts thereof covered by the notice of intention, as the council may deem advisable, and said ordinance so passed and approved by the mayor shall be published for the space of two weeks, at least once in each week, in a newspaper printed in the county in which said borough lies.

Council to pass an ordinance for construction of such sewer.

Publication of ordinance.

Council authorized to purchase lands.

May apply to the courts for appointment of commissioners to condemn land.

**370.** SEC. 2. That the council shall have power to treat with the owner or owners of any lands across which any proposed sewer or drain is to be constructed for the purchase of the land necessary for the construction of said sewer or drain, or for the right to construct such sewer or drain across said lands, and the price paid for such land or paid for the right of way across said lands necessary for the construction of the sewer or drain shall form a part of the whole cost and expenses of said sewer or drain; and if the council cannot agree with the owner or owners as to the price to be paid, the council shall have the right to apply to the courts for the appointment of commissioners to condemn said land or right of way, and the proceedings in such case shall be those usually provided for by law in proceedings for condemnation.

Proceedings for awarding contract to construct sewer.

**371.** SEC. 3. That after the passage of the ordinance and its approval by the mayor the council shall advertise for bids for constructing the work, and upon the basis of the bids received shall cause a preliminary assessment of the entire estimated cost of the work to be made upon the property fronting on said work covered by the ordinance, and when said preliminary assessment has been approved by the council each property-owner so assessed shall be notified by the clerk of the borough and be requested to make an advance payment to the treasurer of the borough of the whole or any part of the amount assessed against said property-owner on the

above preliminary assessment, and said property-owner shall receive from the treasurer a certificate or receipt of the amount so paid in as an advance payment on his sewer assessment, and when fifty-five per centum of the entire cost of the work is thus paid to the treasurer of the borough the council may award the contract and order the mayor to execute the same and the work may proceed, and if fifty-five per centum of the entire cost be not received by the treasurer of the borough before the expiration of sixty days after the approval by the council of the preliminary assessment the council shall rescind the ordinance, and the treasurer shall forthwith return to the several property-owners the amounts respectively paid in, and all expenses for engineering, advertising and all other incidental expenses properly chargeable to the proposed work shall in that case be borne by the borough at large and included in the tax levy.

Upon payment of fifty-five per cent. of entire cost council may award the contract.

**372.** SEC. 4. That if upon completion of the work the treasurer has not sufficient money on hand from the advance payments made by the property-owners interested to pay the entire cost and expenses of the work, or during the progress of the work to pay for any current estimate, he shall report the amount of the deficiency to the council; and it shall then be lawful for the borough to borrow the money necessary therefor, temporarily, upon promissory notes of the borough, or the borough may issue temporary improvement certificates, and said notes or certificates shall bear a rate of interest not exceeding six per centum per annum, and shall not be issued for a term exceeding three years.

Council may borrow money, &c.

**373.** SEC. 5. That upon completion of the entire work authorized by the ordinance, and its acceptance by the council, the council shall appoint three commissioners who shall be disinterested freeholders, not owning or interested in any lands along the line of the improvement, residing in the county in which such borough lies, to revise the preliminary assessment on the basis of the whole cost and expenses of the work duly ascertained (said whole cost and expense of the work to include the expense of engineering, superintendence and assessment, and all other incidental expenses properly chargeable to the work), and the council shall have power to fill any vacancy in the office of the commissioners, occurring from any cause, and said commissioners shall take and subscribe before some person duly authorized to administer the same, an oath or affirmation that they will make such assessment required of them fairly, impartially and legally, according to their best skill and understanding, which oath or affirmation shall be attached to the report that they are hereinafter required to make; and said commissioners having thus qualified shall proceed to revise said preliminary assessment on the basis of the whole cost and expenses of the work duly ascertained, assessing upon the various plots and parcels of land and real estate which they deem benefited by the construction of said sewer or drain amounts proportionate to the benefits that have actually accrued to the various plots and parcels of land and real estate by reason of the construction of said sewer or drain, and in case the whole cost and expense of such work shall exceed the amount of the benefits so assessed upon the land and real estate, then the excess thereof shall be assessed upon and be paid by the borough at large, and be raised by general tax; and before signing the report of the assessment so made, the commissioners shall give public notice of the time and place when and where they will meet for the purpose of giving all persons interested in the same an opportunity to examine said assessment, and hearing any objections to the same that may be made, which notice is to be published in a newspaper printed in the county in which such borough lies for the space of two weeks, at least once in each week, and after such meeting the commissioners, having given due consideration to all objections that may be made, may amend the assessment in any manner they may deem just and equitable, and then shall proceed to complete such report of assessment by signing the same, and transmitting such report of assessment to the council, together with a map showing the various lots and parcels of land so assessed and the names of the owners of the various

Commissioners to be appointed.

Commissioners to take oath.

Public notice to be given and published in a newspaper.

Council to ratify the assessment.

Assessment shall be first lien on land.

Certiorari not allowed by court after thirty days from ratification of assessment.

Party applying for writ shall give bond.

Treasurer to credit amount of advance payment.

How collection of assessments shall be enforced.

Proviso.

The portion of sewer costs imposed on borough, how raised.

plots and parcels of land as far as they can be ascertained, with the amounts assessed against the same, and no error or omission in stating the name or names of the owner or owners of such lands shall invalidate the assessment; and the council shall then ratify the assessment so made without delay, and the same shall be final and conclusive as well upon the borough as upon the owners of land affected thereby; and such assessment shall be and remain a first lien upon the lands so assessed to the same extent as taxes and assessments are now a lien under the general laws of this state, and shall bear interest at the rate of six per centum per annum; and the council shall immediately give public notice that such assessment has been ratified.

**374. SEC. 6.** That no certiorari shall be allowed by any court to review any of the proceedings in relation to such work, nor to affect in any way any assessments made by such commissioners, after the lapse of thirty days from the ratification of the council of the borough of such assessment; and such writ of certiorari shall not be allowed unless the party applying for the same shall enter into bond to such borough in sum of two hundred dollars, with two good and sufficient sureties, conditioned that such applicant shall prosecute the said certiorari; and shall pay to the said borough the cost and charges incurred by said borough necessary under the proceedings of the certiorari, with interest, if the assessment shall stand; and said bond to be approved by the court to which the application is made.

**375. SEC. 7.** That after the ratification of the said assessment, the treasurer of the borough shall credit upon each lot or parcel of land and real estate assessed the amount of the advance payment that may have been made by the owner thereof, under section three of this act, and the balance remaining unpaid upon the assessment shall then be collected as hereinafter provided; and if any owner of land has paid to the treasurer on his advance payments an amount greater than the amount of the assessment against his property, as shown upon such ratified assessment, then the difference shall be refunded to said owner by the treasurer of the borough.

**376. SEC. 8.** That if any assessment upon any plot or parcel or land remains unpaid after the expiration of two years from the ratification of the assessment, then the collector of the borough shall proceed to enforce the collection thereof as now required of township collectors in this state; *provided, however,* that when any lands shall be sold against which an unpaid assessment for benefits for construction of a sewer has been returned, the same shall be sold free and clear of all incumbrances and the title thereto shall become an absolute title in fee-simple to any purchaser after the expiration of two years from the date of the certificate of such sale, issued by the collector of said borough, in the same manner that certificates of sale are now issued where lands are sold to raise and pay taxes assessed and levied under the general laws of this state, and all proceedings under this act to sell lands to pay such assessments shall be carried on in the same manner and subject to the same rules observed and provided in this state for making the general taxes a first lien upon real estate and providing for the sale of the same, except as herein otherwise provided.

**377. SEC. 9.** That the council of any borough, in which part of the costs and expenses for building any sewer or sewers, drain or drains has been assessed upon the borough at large, shall have the power to order the assessor of the borough to include the whole amount so assessed upon the borough in the tax levy next following the ratification of the assessment; or such council can, in its discretion, order the amount so assessed against the borough to be assessed and collected in not more than three yearly tax levies next following the ratification of the assessments.

**378. SEC. 10.** [Amended by Sec. 409, *post.*]

## Supplement.

Approved March 13, 1893. P. L. 1893, p. 255.

**379. SEC. 1.** That it shall be lawful for the mayor and council of any borough incorporated under this act to make and establish ordinances for the following purposes, viz. : to license and regulate the owners and drivers of express wagons, trucks, hacks, cars, omnibuses, stages and all other carriages and vehicles used for the transportation of passengers, baggage, merchandise and goods and chattels of every kind; also to license and regulate the owners and drivers of all vehicles used in connection with any business for the purpose of soliciting orders or delivering goods within the limits of the municipality; also to license and regulate all auctioneers, common criers, hawkers, peddlers, pawnbrokers, junk wagons, news stands, sweeps, scavengers, traveling and other street shows, street exhibitions, street parades, circuses, concerts, theaters, skating rinks, merry-go-rounds, observation roundabouts, razzle-dazzles, or circular swings, organ grinders, itinerant venders of merchandise, medicines and remedies, and to fix the license fee to be paid therefor, which may be imposed for the purpose of revenue; and also to designate and locate stands and places which hackmen, cartmen, and all other persons engaged in carrying passengers, baggage and merchandise shall be privileged to occupy when soliciting business, and to prevent the occupying of other places for such purposes, and to fix and prescribe penalties for the violation of any such ordinance or ordinances, or section thereof, either in the nature of a fine or imprisonment, under the authority of the act to which this is a supplement.

Mayor and council authorized to make ordinances to license and regulate owners and drivers of express wagons, &c.

**380. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

## Amendatory act.

Approved March 14, 1893. P. L. 1893, p. 267.

**381. SEC. 1.** That section thirty-six of said act [see Sec. 356, *ante*] be and the same is hereby amended so as to read as follows :

[That the inhabitants of any district in this state adjacent to and adjoining any borough heretofore created, or hereafter to be created, under any general law of this state, may become a part of such borough with all the powers and liabilities conferred upon the original corporation, and with the same rights and duties as if it had been included within the boundaries of the borough of which it seeks to become a part when the same was incorporated; *provided*, that the district to be added shall not increase the area of the whole borough beyond the size provided for in the act under which such borough was incorporated; *and provided further*, that the proceedings to annex any district to an existing borough shall be the same as is provided by this act for the incorporation of a borough, and the result of the election in the territory to be annexed shall be submitted to the mayor of the existing borough who shall at the next ensuing annual election submit the question of annexation to the legal voters in the existing borough, and if a majority of the said legal voters shall vote "against annexation" the result of the election shall be certified by the election officers, and all papers relating to the proceedings shall be filed in the clerk's office, as provided by this act, and the question of annexing the same territory shall not be again acted upon for five years; but if a majority of the legal voters in the existing borough shall vote "for annexation," then as soon as the result of the election is certified and filed in the clerk's office as provided by this act, the annexed district shall become a part of the original borough; *and provided further*, that nothing in this act shall apply to, affect or include any street, road or highway that is now or may hereafter be under charge, direction, management or control of any county public road board in this state, whether created or organized under or by virtue of any special or general act of the legislature.]

District adjacent to borough may become a part thereof.

## Supplement.

P. L. 1893, p. 289.

Council authorized to provide music for public parks, &amp;c., by assessment.

Mayor and council direct assessment made.

Tax, how assessed and collected.

Approved March 14, 1893.

**382. SEC. 1.** That it shall be lawful to assess and collect in any borough incorporated under this act, whenever the council shall deem it to the best interest of and for the good of the borough, one mill, or any portion thereof on each dollar of the assessed valuation of the property therein, for the purpose of providing music for the public parks, and other public places to which the people resort for pleasure, recreation and amusement.

**383. SEC. 2.** That whenever the mayor and council of any such borough shall deem it to the public interests, and for the good of the borough, that an assessment should be made for the purpose aforesaid, they may, by resolution, regularly adopted, direct the assessor of said borough to raise such sum of money as they shall deem necessary for the purpose aforesaid, which shall not, however, exceed one mill on the dollar as aforesaid.

**384. SEC. 3.** That the assessor, on receipt of a resolution, such as is provided for in the preceding section, shall, at the time when the annual taxes are assessed, assess the amount called for in said resolution, against all property in said borough, and said assessment shall be collected at the same time that the annual taxes are collected, and by the same officer, and said borough shall have the same remedies for the collection thereof that are provided for the collection of the regular borough tax.

## Amendatory act.

P. L. 1893, p. 402.

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How and by whom a special election called.

Notice to be given.

Notice to be printed and published.

How and by whom objections may be made.

Approved March 17, 1893.

**385. SEC. 1.** That section two of an act entitled "An act for the formation and government of boroughs," which act was approved April second, one thousand eight hundred and ninety-one [see Sec. 322, *ante*], be and the same is hereby amended so as to read as follows:

[That it shall be the duty of the law judge of the court of common pleas in and for the county in which said proposed borough is situated, and if such county have no law judge then it shall be the duty of the justice of the supreme court appointed to hold the circuit court in said county, upon presentation to him of a petition for that purpose, setting forth the name and boundaries of the proposed borough, signed by persons owning at least one-tenth in value of the taxable real estate in the limits of the proposed borough, as the same appears upon the assessor's duplicate, to call a special election, to be held at some convenient place within the proposed borough, by notice in writing under his hand, which notice shall contain an accurate description of the same and boundaries of the proposed borough and state the object of the said election to be to vote for or against the incorporation of the said proposed borough, under the provisions of this act; which notice shall be set up at least ten days previous to said proposed election in five of the most public places within the said proposed borough limits, and published at least twice in a newspaper printed and published within the said proposed borough limits, if any, or if none so published, then in a newspaper printed and published in the county wherein said proposed borough is situated.]

**386. SEC. 2.** That section four of the same act [see Sec. 324, *ante*] be and the same is hereby amended so as to read as follows;

[That any citizen of the district within the limits of which the proposed borough is to be created shall be allowed to appear before said judge and object to the making of the order for such special election, and that the said judge shall, on the same day or on some other day to which he may adjourn the hearing of said petition, proceed to hear the matter.]

## Supplement.

P. L. 1893, p. 482.

Who constitute the council.

Approved March 27, 1893.

**387. SEC. 1.** That in all boroughs incorporated under the act to which this is a supplement, having a population of three thousand inhabitants

or more, there shall be a mayor and six members of council, who shall constitute the council and shall hold office for two years; *provided*, that at the first meeting of the council after the first election held under said act the members of council shall divide themselves, by lot, into two classes; the term of the first class shall be vacated at the expiration of the first year, the term of the second class at the expiration of the second year, so that three members of council shall be elected annually after the first election; and if vacancies happen by resignation or otherwise the person or persons elected to supply such vacancies shall be elected for the unexpired term only.

Term of office.

**388. SEC. 2.** That the council of any borough may select and designate a justice of the peace in the borough to try and determine all causes and complaints for violation of any ordinance of the council, and the justice of the peace so selected and designated shall have the same power and authority to issue process, try and determine said causes, and fine and imprison, upon conviction, in all respects as the mayors of boroughs are now given under said act.

Council may designate justice of the peace to try complaints for violation of ordinances.  
Powers of such justices.

## Supplement.

Passed May 8, 1894.

P. L. 1894, p. 234

**389. SEC. 1.** That all boroughs incorporated under the act to which this is a supplement shall hereafter vote within their several boroughs.

Boroughs shall vote within their limits.

**390. SEC. 2.** That at the annual elections for borough officers, that are held on the same day town meetings or election of township officers are held in the various townships of this state, the legal voters of said boroughs shall be entitled to vote for a chosen freeholder for any township out of which such borough was formed when such freeholder is to be elected in such township, but for no other township officers.

Legal voters may vote for chosen freeholders.

**391. SEC. 3.** That there shall be elected in said boroughs an overseer of the poor, who shall hold his office for the term of three years, and until his successor shall be qualified, and shall enter into bond with the said borough for the faithful performance of his duties according to law in such sum and sureties as the mayor and council of said borough shall approve.

Election and term of overseer of poor.

**392. SEC. 4.** That all acts or parts of acts inconsistent with this act be and the same are hereby repealed.

Repealer.

## Supplement.

Approved May 15, 1894.

P. L. 1894, p. 335.

**393. SEC. 1.** That all the provisions of an act entitled "A supplement to an act entitled 'An act for the formation and government of boroughs,' approved April second, one thousand eight hundred and ninety-one," approved March seventh, one thousand eight hundred and ninety-three [see Secs. 369 to 378, *ante*], be and the same are hereby extended to all boroughs organized under the act to which this act is a supplement.

Provisions of supplement of March 7th, 1893, extended.

**394. SEC. 2.** That the mayor and council of any borough incorporated under the act to which this act is a supplement, in which a sewerage system for said borough has been heretofore constructed and paid for by the issue of improvement bonds of said borough, be and they are hereby authorized to appoint commissioners of assessment as provided for in said supplemental act; and said commissioners, when appointed and qualified, and the mayor and council and other officers of said borough, shall perform all the duties and possess all the rights and powers conferred on such officers by the provisions of said supplemental act so far as the same may be applicable.

Mayor and council may appoint commissioners of assessment.

## Supplement.

Approved May 16, 1894.

P. L. 1894, p. 361.

**395. SEC. 1.** That whenever it is proposed to change, alter or relocate a boundary or boundary lines of any borough formed under the act to which this is a supplement, such change, alteration or relocation shall be made only upon a petition, signed by three-fourths of the persons whose property

Boundaries may be changed only on petition.

Petition shall be filed on order of law judge or justice of supreme court.

Order shall set out particulars.

Special election shall be held.

Votes shall be by ballot, &c.

Repealer.

is located within the proposed change, alteration or relocation, stating by metes and bounds the said change, alteration or relocation; and upon such petition signed as aforesaid being presented to the law judge of the court of common pleas of the county in which such borough is situate, or to any justice of the supreme court of the state of New Jersey, it shall be the duty of said law judge or justice of the supreme court, to order said petition filed with the clerk of the county in which said borough named in the petition is located, and also to order a special election of the legal voters of such borough to be held by the regular election officers of the said borough on a day named in said order, not less than thirty days from the date of such order, which order of said judge shall set out the particulars, proposed changes, alterations or relocation, and also order the clerk of such borough to give twenty days' notice of the said election, which notice of the clerk shall contain a true copy of the order signed by the judge aforesaid; and if at such special election a majority of the votes so polled are for the change, alteration and relocation proposed in said petition, then the election officers shall so certify, and if against such change, alteration or relocation, then the election officers shall so certify, and the certificate, together with the petition and all orders thereon, shall be recorded by said county clerk in the minutes of the court of common pleas, and the boundary or boundary lines of such borough shall thereafter be as evidenced by said record.

**396. SEC. 2.** That at such an election the vote shall be by ballot, designated and marked "official ballot," as now provided by law for election of members of general assembly, and said ballot shall be headed "for" or "against" the proposed change, alteration or relocation, and said election shall be conducted in all respects as elections are now conducted for election of said members of the general assembly of New Jersey.

**397. SEC. 3.** That this act shall be a general act, and all acts or parts of acts inconsistent herewith be and the same are hereby repealed.

#### Supplement.

Approved May 16, 1894.

P. L. 1894, p. 372.

Boroughs of first class shall be separate from township.

Voters within borough shall not vote for township officers, &c.

Money shall not be raised therein for township purposes.

Officers' terms expire when.

Officers to be elected.

Shall elect chosen freeholder.

Repealer.

**398. SEC. 1.** That all boroughs of the first class existing within the limits of any of the townships of this state, incorporated under the act to which this is a supplement, shall hereafter be entirely separate and independent from said township in all matters.

**399. SEC. 2.** That the legal voters within said boroughs shall have no right to vote for any officer or person of the township out of which said borough has been created, nor to vote for any appropriation for any purpose concerning the township.

**400. SEC. 3.** That hereafter no money shall be raised in such boroughs by taxation or otherwise, for township purposes, except such proportionate amount as may be necessary to pay the interest or principal on any bonds against said township, existing at the time this act shall become a law.

**401. SEC. 4.** That all township officers elected prior to the passage of this act, residing within said borough, shall hold their offices until the expiration of the time for which they are elected.

**402. SEC. 5.** That in all boroughs of the first class incorporated under the act to which this is a supplement, the legal voters of said borough shall, at each annual election for borough officers, elect justices of the peace, constables, surveyors of the highways, poundkeepers, and overseers of the poor for such borough, in accordance with the existing statutes regulating the election and term of office of such officers in townships.

**403. SEC. 6.** That hereafter all boroughs of the first class incorporated under the act to which this is a supplement, shall be entitled to one member of the board of chosen freeholders, to be elected in accordance with the existing statutes now regulating the election and length of terms of members of said board of chosen freeholders.

**404. SEC. 7.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

## Supplement.

Approved March 14, 1895. P. L. 1895, p. 301.

**405.** SEC. 1. That section nine of said act [see Sec. 329, *ante*] be amended so as to read as follows:

[That in addition to the officers above provided for, there may be appointed by the council one borough marshal, one surveyor, one solicitor, one superintendent of public roads, one police justice, who shall have like jurisdiction and exercise like powers as are now by law conferred upon police justices in cities of the third class in this state, and such and so many policemen and other officers as shall be deemed necessary by said council, who shall hold office for such time and perform such duties as are or may be by law or ordinance of said council, not in conflict with law, provided for.]

Council may appoint certain additional officers.

## Supplement.

Approved March 29, 1895. P. L. 1895, p. 375.

**406.** SEC. 1. That it shall be lawful for any village heretofore incorporated by virtue of any special or general law to accept the provisions of the act to which this is a supplement, and thereafter be governed by the same, and have all the rights, privileges and powers specified in the act to which this is a supplement, and in the supplements thereto, in lieu and instead of the provisions of the act or acts under which such village was incorporated or which have been heretofore in force therein; *provided*, that the question of adopting this act shall be submitted to the legal voters of said village by the trustees or other governing board of said village at a general or special election held for the purpose, and be approved by a majority of the votes cast at such election.

Any incorporated village may accept provisions of this act.

Proviso.

**407.** SEC. 2. That the said board of trustees or other governing board shall appoint a clerk and two inspectors of said election, who shall be freeholders and legal voters in the said proposed borough, and who shall hold and conduct the election aforesaid; the polls shall open and close at the same hours as at general elections in this state, and the election shall be conducted, as nearly as may be, in like manner as general elections are conducted; the ballots cast shall contain the words "for incorporation" or "against incorporation," as the case may be; at the close of the polls the said clerk and inspectors shall canvass the votes cast, and if the majority of said votes shall be for incorporation, they shall forthwith certify the result of said election and the number of votes cast for and against, under their hands, to the clerk of the county wherein said borough is situated, to be filed in his office, and from the time of filing said certificate in the office of the clerk of the county aforesaid the inhabitants of said borough shall be a body corporate, in fact and in law, under the name of the "mayor and council of the borough of \_\_\_\_\_," and by said name shall have perpetual succession, sue and be sued, prosecute and defend, in all courts of law and equity in this state, have a common seal, and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of said borough.

How the special election shall be conducted.

**408.** SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to amend an act entitled "A supplement to an act entitled 'An act for the formation and government of boroughs,' approved April second, one thousand eight hundred and ninety-one," which supplement was approved March seventh, one thousand eight hundred and ninety-three.

Approved March 21, 1895. P. L. 1895, p. 400.

**409.** SEC. 1. That section ten [see Sec. 378, *ante*] of said supplement to said act be and the same is hereby amended so as to read as follows:

[That if any borough which is incorporated under the act to which this act is a supplement shall have heretofore constructed, under contract made by the mayor and council of said borough, a sewer, which has, in fact,

Proceedings for constructing sewer, &c., heretofore taken legalized.

been accepted by the mayor and council of said borough, and for the payment of the cost of construction of which bonds of said borough have been issued, or shall have begun proceedings for the purpose of constructing sewers or drains, as they are empowered by said act to do, all such proceedings, including the assessment to provide for the payment and redemption of said bonds heretofore made, or that may be made in conformity with this act so far as the same is applicable thereto, shall have as full legal effect as if they had been taken in conformity with all the provisions of said supplemental act.]

## Supplement.

P. L. 1895, p. 610.

Certain borough boundaries declared to be lawful.

Approved March 22, 1895.

**410. SEC. 1.** That when any borough shall heretofore have been organized or attempted to be organized under and by virtue of the provisions of the act to which this is a supplement, and the territorial limits and boundaries of any such borough shall have been duly fixed and determined in accordance with the provisions of said act in the petition for such incorporation, without any action or decision with reference to such boundaries upon the part of the judge to whom such petition for incorporation shall have been presented, then and in such case the said territorial limits and boundaries of any such borough so organized or attempted to be organized shall be taken, and the same are hereby declared to be the lawful territorial limits and boundaries of such borough; *provided*, that no act has heretofore been passed by the legislature affecting said territorial limits and boundaries by the creation of new municipalities or otherwise.

## Supplement.

P. L. 1895, p. 670.

Legally-incorporated borough governments shall be liable for debts of former de facto governments.

Approved March 25, 1895.

**411. SEC. 1.** That whenever any body of citizens have heretofore organized themselves as a borough, by virtue of any law of this state, and have thus become an ostensible or de facto government, and as such have entered into contracts or incurred debts, and it has appeared that said borough, by reason of some provision or defect in the laws under which such borough shall have been organized had not been a corporation de jure, and that said citizens have since become legally incorporated as a borough, then in such case such corporation de jure shall be liable for the payment of such debts, and shall be subject to the obligations of such contracts to the same extent as if the same had been contracted or entered into by said corporation de jure itself in the first instance, and shall be entitled to, and be possessed of, all the property, right, privileges and powers that shall have been acquired or possessed by the said body corporate de facto.

## IV. Boroughs in seaside resorts.

## An act for the formation of borough governments in seaside resorts. (a)

P. L. 1878, p. 232.

Election upon question of forming a borough, how called and conducted.

Approved March 29, 1878.

**412. SEC. 1.** [Amended by Sec. 448, *post*.]

**413. SEC. 2.** That such election shall be called by one of the chosen freeholders of the township in which such district, so intended to be incorporated into a borough, is situate, upon written application to him by persons representing one-tenth of the taxable real estate in such district, the application to contain an accurate description of the boundaries of the district so intended to be incorporated into a borough; such description of the boundaries shall be included in the notice of the election published by such freeholder; eight days' public notice of such election shall be given; the said freeholder shall appoint one clerk and two judges of election to act with him in holding such election, which said officers so appointed shall

(a) This act declared unconstitutional by supreme court, and borough governments formed under it will be dissolved on information filed by the attorney-general *ex officio*. *State v. Somers Point*, 23 Vr. 32.

be residents in and legal voters of said district; the election shall be conducted in conformity with the laws respecting general elections.

**414. SEC. 3.** That the public notice required by this act shall be the posting of such notice in five of the most public places in the district so intended to be incorporated, and by advertisement in a newspaper printed in the county in which such district is situate.

How public notice of election shall be given.

**415. SEC. 4.** That the polls shall be opened and closed at the hours required for general elections by the laws of this state, at such place as shall have been previously selected.

Time of opening and closing polls.

**416. SEC. 5.** That there shall be chosen at such election one mayor, who shall be keeper of the borough seal, and hold his office for two years; four members of council, which mayor and members of council shall be one body corporate and politic in deed, fact, name and law, by the name, style and title of the mayor and council of the borough of ———; in addition to the above-named officers there shall be elected annually a borough clerk, who shall be clerk of election and perform all the duties required by law of the clerks of townships, not inconsistent with the provisions of this act; one assessor, one collector, who shall be borough treasurer, as many chosen freeholders as are elected in the townships of the county in which such district is situate, two surveyors of the highways, three commissioners of appeal in cases of taxation, one judge and two inspectors of election and one poundkeeper; in addition to the above officers there may be appointed by the council one borough marshal, one surveyor, one solicitor and one superintendent of public roads, and such and so many policemen and other officers as shall be deemed necessary; *provided*, that at the first meeting of the council after the first election held under this act, the members of council shall divide themselves by lot into two classes; the term of the first class shall be vacated at the expiration of the first year, the term of the second class at the expiration of the second year, so that two members of council shall be elected annually after the first election, to hold their office for two years; and if vacancies happen, by resignation or otherwise, the person or persons elected to supply such vacancies shall be elected for the unexpired term only.

Officers that shall be chosen.

Proviso.

**417. SEC. 6.** That within twenty days after the first election held under this act the clerk shall publish the result of such election, and shall file an official certificate of such election and the boundaries decided upon, in the offices of the secretary of the state and of the clerk of the county in which such borough is situate, which certificate shall be signed by three of the members of council elected.

Certificate of election and boundaries decided upon to be filed.

**418. SEC. 7.** That all officers elected or appointed by virtue of this act shall, within twenty days after their election or appointment, and before entering upon the discharge of their offices, take and subscribe before some person duly authorized by law for such purpose, an oath or affirmation faithfully and impartially to discharge the duties of their respective offices, and upon neglecting to do so the said offices shall be deemed and declared vacant; all such oaths or affirmations shall be filed in the office of the clerk.

Officers required to take and subscribe official oath.

**419. SEC. 8.** That such officers as the council shall require, shall, before they enter on the duties of their office, give bonds to the borough in its corporate name in such sums and with such sureties as the said council may approve for the faithful performance of their duties.

Bonds to be given when required by council.

**420. SEC. 9.** That the mayor and members of council of such borough shall constitute the council thereof, and shall hold an annual meeting therein on the next Tuesday after the annual election yearly and every year, and such other meetings as they shall by ordinance direct and appoint; the mayor shall preside at such meetings and shall have a vote only in such cases where there is a tie, and in the absence of the mayor the members of council shall appoint one of their number to preside pro tempore; and when met said council shall have power to make and adopt such rules, by-laws and regulations, and in general to do and perform all such other acts as provided for and warranted by this act, and that three members shall constitute a quorum of said council, and it shall be the duty of

Borough council, how constituted.

General powers.

the mayor, when necessary, to call special meetings of said council, and in case of his neglect or refusal, then it shall be lawful for any three members of said council, at such time and place in said borough as they may designate, to call any special meeting or meetings by written or printed notices, and in all cases of special meetings notice shall be given to all the members of said council in person or left at their place of residence.

Vacancies, how filled.

**421. SEC. 10.** That in case of a vacancy happening in any office created and made elective by this act, by death, resignation, removal or otherwise, except in officers of election on the day of election, it shall be filled by the said council at their next meeting thereafter, and the said appointment shall continue until the next annual election and no longer; and the person or persons appointed to fill such vacancies shall be entitled to the like compensation and be subject to the same responsibilities and penalties as if elected at the annual election as aforesaid.

Powers and duties of borough clerk, treasurer, &c.

**422. SEC. 11.** That the borough clerk, judge and inspectors of election, collector, assessor, chosen freeholders, surveyors of the highways, commissioners of appeal and poundkeeper shall respectively possess the powers and perform the duties of like officers in any township of this state, so far as shall be consistent with the provisions of this act; and in addition, the said borough clerk shall attend all meetings of the council of said borough, keep accurate minutes of their proceedings and record the same in a book to be provided for that purpose, and in like manner record all ordinances passed by the council, and shall do and perform all such other duties as the said council may from time to time prescribe; and the power and duties of the treasurer of said borough shall be the same as collectors of townships of this state, and such other power and duties as provided for in this act or shall be enjoined by the ordinances of said council.

Duty of the collector as to receiving, collecting and paying out money, &c.

**423. SEC. 12.** That it shall be the duty of the collector, who shall be borough treasurer, to receive, collect and pay out all moneys due or belonging to said borough, whether for taxes, assessments, arrears for taxes or otherwise, and safely keep and disburse the same under the direction of the council, and shall pay out the same only upon the warrant of said council, signed by the mayor and countersigned by the clerk, and no warrant on the borough treasurer shall be authorized except in pursuance of an order of said council, passed at a stated meeting and entered on their minutes; and such warrants shall be made and numbered payable to the order of the person or persons to receive the same, and shall specify for what purpose the amount therein mentioned is directed to be paid; the said treasurer shall keep a record of the proceedings affecting the revenue of said borough, and shall make out, annually, on the first Tuesday in March, or oftener should the said council require, and publish in a newspaper printed in the county in which said borough is situate, if any there be, a detailed and true statement of all moneys received into the treasury, and of all moneys disbursed therefrom, from the commencement of his official year to the date aforesaid, and file a copy with the borough clerk.

Council may pass ordinances, &c., to lay out and open streets, establish grades, &c.

**424. SEC. 13.** That the said council shall have power to pass, enforce, alter and repeal ordinances to take effect within said borough for the following purposes, viz.: to lay out, open, widen, vacate, alter, grade, fill up, straighten, extend, clean, repair, refill, establish, alter and regulate the grade and grading of all streets, avenues and roads, side and crosswalks, to ascertain and establish the grade and boundaries of all streets, public alleys, roads and sidewalks in said borough, and to authenticate any and all of said improvements by maps or otherwise; *provided*, that the grade being thus established shall not be altered except by consent of the owners of two-thirds of the frontage affected by such alteration; for the regulating, paving, graveling, cleansing and keeping in repair the streets, roads, highways, alleys and crosswalks in such borough; for regulating the planting and protection of shade trees; for preventing or removing all obstructions, encroachments, cumbrances and nuisances, or any of them, from the streets, roads, highways, sidewalks, alleys, inclosures and lots in such borough; for ascertaining and establishing the boundaries of all streets, alleys and sidewalks in such borough; for causing the territory embraced

Paving and repairing streets.

Removing obstructions.

Ascertaining boundaries. Making surveys.

within the boundaries of such borough to be accurately surveyed and mapped for roads, streets and avenues; for grading, paving, graveling and laying sidewalks in such borough; for preventing and removing all obstructions, impediments or nuisances on any street or street crossing caused by any railroad company or its agent; for preventing persons from riding and driving or passing over or upon the sidewalks, except when necessary to cross the same, with horses, wagons, carts or carriages of any description; for lighting the streets and alleys in said borough; for preventing or regulating the running at large of horses, cattle, goats, geese, dogs and swine; for preventing the immoderate riding or driving through or in any street or alley of such borough; for preventing or suppressing any riots, routs, disturbances, breaches of the peace or disorderly assemblages in any street, alley, house or place in such borough; for the erection of fountains and statues, and for sinking and regulating pumps, wells and cisterns in the streets, parks, squares or inclosures of such borough; for the extinguishing of fires; for regulating fire engines, hose and truck companies; for regulating the keeping of gunpowder and other combustible or dangerous material; for the cleansing of chimneys and regulating the same; for appointing policemen, regular or special, watchmen and other subordinate officers, and prescribing their powers, duties and compensation; for establishing and regulating one or more public pounds; for restraining vagrants, mendicants and street beggars; for erecting, repairing and regulating a borough hall, borough jail and such other public buildings as may be necessary; for preserving peace and good order; for preventing or suppressing all gaming or disorderly houses; for regulating or preventing the carrying on of any trade, business or manufacture likely to promote or cause fires, or to endanger the health or well-being of the inhabitants of such borough; for the sewerage or drainage of such borough; for laying down iron, lead, glass, wood or other pipes for the conveyance of water or gas in the streets, highways, alleys and sidewalks of said borough, and for regulating the same; to provide for the erection and maintaining of gas and water works in such borough; for the suppression of vice and immorality; for the licensing and regulating butchers, hawkers, hucksters, peddlers and petit hucksters; for licensing and regulating or prohibiting restaurants, bowling alleys, billiard saloons, oyster-houses and cellars; and the said council shall or may enact or pass such and so many other ordinances or by-laws for the peace, good government, order, well-being and convenience of such borough as they may deem necessary, proper and expedient, not repugnant to this act or the constitution of this state or of the United States.

**425. SEC. 14.** That every ordinance and every resolution of the council affecting the interests of the borough shall, before it takes effect, be presented, duly certified, to the mayor, and the report of the clerk shall be conclusive evidence that the said ordinance or resolution has been so presented to the mayor; if he approves it he shall sign it, if not, he shall return it with his objections, and file the same with the clerk within five days after he shall have received it, and the said council shall, at its first regular meeting thereafter, order the objections to be entered at large on its journal, and shall proceed to reconsider the same, and if three-fourths of all the members shall pass the same it shall take effect as a law, but in every such case the vote shall be taken by ayes and noes and entered on the journal; and if such ordinance or resolution shall not be returned by the mayor within the time above specified, it shall become a law in like manner as if he had signed it; *provided*, that each and every ordinance and resolution so passed as aforesaid, shall be published for the space of two weeks, at least once in each week, in a newspaper printed in the county in which such borough is situate, before said ordinance or resolution shall go into effect; *provided also*, that no ordinance or by-law shall be enacted or passed by the said council, unless the same shall have been introduced before the said council at a previous meeting, and shall have been agreed to by a majority of said council, but said council may, by a three-fourths

Laying sidewalks, &amp;c.

For lighting streets, &amp;c.

Preventing riots, &amp;c.

Erecting fountains, &amp;c.

Regulating fire engines, &amp;c.

Appointing policemen, &amp;c.

Erecting public buildings, &amp;c.

Prevention of fires, &amp;c.

Laying pipes, &amp;c.

Erecting gas and water works.

Licenses.

Ordinances to be presented to the mayor.

To be approved.

How passed if not approved.

To be a law if not returned to council in time specified. Proviso.

Proviso.

vote, put any such ordinance or by-law on its final passage on the same day which the same shall be introduced.

Enacting clause.

**426. SEC. 15.** That the ordinances of such borough shall begin in the following style, viz.: "Be it enacted by the mayor and council of the borough of \_\_\_\_\_."

**427. SEC. 16.** [Supplied by Sec. 444, *post.*]

**428. SEC. 17.** [Amended by P. L. 1881, p. 99, which is repealed and supplied by Secs. 445 and 446, *post.*]

May establish ordinances for laying out streets, &c., on application of property-holders.

Appointment of commissioners.

Duties and requirements of commissioners.

**429. SEC. 18.** That it shall and may be lawful for the said council to make and establish ordinances and regulations for the laying out, extending, opening, altering or widening of any street, road, highway or alley within the borough, as they shall judge the public good requires, the same to be done only on the application in writing to the said council of at least ten property-holders of such borough; and there shall be three commissioners appointed by the said council immediately after the passage of any ordinance for the purpose aforesaid, who shall be in every case residents in such borough, and entirely free from pecuniary interests in any houses or lands to be affected by assessments or awards, by reason of any such laying out, opening, extending, altering or widening; and who, in laying out, opening, extending, altering or widening any street, road, highway or alley within such borough, shall perform like duties, and be subject to like requirements and penalties as the surveyors of the highways are now required to perform and are subject to by the law of the state concerning roads; and the law of this state is hereby made applicable in all such cases.

Compensation of borough officers, how fixed.

Proviso.

**430. SEC. 19.** That the council of such borough shall have power by ordinance or resolution to grant or allow such fees or compensation to the several officers of said borough, as to them shall seem necessary and proper; *provided*, that the mayor shall not receive a salary exceeding three hundred dollars per annum, for the performance of his official duties, other than the fees which appertain to his office as a justice of the peace; that the members of council shall not be paid, directly or indirectly, any compensation for the performance of their official duties; the fees of the assessor and collector to be as now provided by law.

Fines and penalties.

Mayor constituted a court of record.

May issue warrants.

May issue execution.

Duties of the jailer of the county as to commitments made by mayor.

**431. SEC. 20.** That the said council shall and may make and impose fines and penalties against all persons who shall offend against the by-laws and ordinances of said council; and the mayor of said borough is hereby constituted a court of record to take cognizance of all offenses against such by-laws and ordinances, and punish all offenders against the same by fine not exceeding fifty dollars or imprisonment not exceeding thirty days in the jail of such borough or in the county jail, or both, together with the costs of conviction; and it shall and may be lawful for the said mayor, on complaint made upon oath or affirmation of an offense committed against the said by-laws and ordinances, and on conviction thereof, to issue his warrant to the marshal or any policeman of said borough, commanding him, in case any offender or offenders be sentenced to imprisonment, to convey him, her or them to the jail aforesaid, there to remain until the term of imprisonment shall have expired and the costs of conviction shall be paid; and in case the offender or offenders shall be adjudged to pay a fine, that it shall and may be lawful for the said mayor to issue an execution to the borough marshal or any policeman of said borough, commanding him to levy and make such fine and costs of goods and chattels of said offender or offenders, and the said borough marshal or policeman is hereby authorized and required to execute the process aforesaid; that the jailer of the county in which such borough is situate shall receive and safely keep all such offenders as shall be committed to the jail of said county by the mayor of said borough for the term of his, her or their imprisonment as expressed in the warrant of commitment, and all the expenses of keeping said offenders in said jail shall be borne and paid by the county.

**432. SEC. 21.** [Amended by Sec. 467, *post.*]

**433. SEC. 22.** That the commissioners of appeal in cases of taxation shall meet annually on the fourth Tuesday of November, to hear and determine all complaints of unjust taxation; they shall sit from ten o'clock in the forenoon until five o'clock in the afternoon, or longer if found necessary, to dispose of all cases submitted to them for consideration, and shall give public notice of the time and place of such intended meeting, in any newspaper printed in the county, if any there be, at least ten days previous to such assembling, and by handbills posted in five of [the most] public places in said borough.

Powers and duties  
of commissioners  
of appeal.

**434. SEC. 23.** [Amended by Sec. 442, *post.*]

**435. SEC. 24.** [Amended by Sec. 447, *post.*]

#### Supplement.

Approved February 13, 1881. P. L. 1881, p. 38.

**436. SEC. 1.** That it shall not be lawful for any person or persons to sell, within the corporate limits of any borough incorporated under the act to which this is a supplement, any spirituous or malt liquors in quantities less than five gallons, without having first obtained a license therefor from the mayor and council of such borough, or a majority thereof in council convened, in whom shall, by this act, be vested the exclusive right and power of granting such restrictions and penalties as they deem necessary in relation thereto.

Unlawful to sell  
liquors without  
license from  
mayor and  
council.

#### Supplement.

Approved March 10, 1881. P. L. 1881, p. 94.

**437. SEC. 1.** That for the purpose of laying out, grading or improving the streets or sidewalks of any borough formed or organized by virtue of the act to which this is a supplement, it shall and may be lawful for the council of said borough, upon obtaining the written consent of persons representing one-half or more of the value of the taxable property in said borough, as represented by the duplicate of the borough assessor, to borrow such sum or sums of money, in the name of the borough, as may be necessary to carry out and complete the laying out, grading or improvement of any street or streets, sidewalk or sidewalks in said borough, and to secure the payment thereof by the issuing of bonds or other instruments, under the common seal of the borough and signature of the mayor, attested by the clerk; said bonds not to run for a longer period than twenty years from the date thereof, and to bear interest at a rate not exceeding the legal rate.

Council may  
borrow money  
and issue bonds  
for laying out  
streets, &c.

**438. SEC. 2.** That said council may, upon obtaining the written consent of the persons representing one-half or more of the taxable property in said borough as aforesaid, to cause any of said streets or sidewalks to be graded and improved, and to issue bonds or other instruments, under the common seal of said borough and signature of the mayor, as they shall deem for the best interests of said borough.

May grade  
streets, &c.

**439. SEC. 3.** That when the council of any borough shall issue bonds as herein provided, that it shall and may be lawful for the said council to order and cause to be assessed and raised by tax every year, such sum of money, in addition to other moneys to be raised by said borough, as may be requisite to pay the interest on said bonds, and so much of the principal thereof as they may deem necessary and expedient, and to provide for the payment of said bonds when due; *provided*, the provisions of this act shall not be operative until the people of such borough shall vote on the issue of such bonds at the next ensuing municipal election to be held in such borough, and if a majority of the legal voters therein shall vote against such issue then no such issue of bonds shall be made.

Interest and  
principal of bonds  
to be assessed and  
collected.

When act shall  
take effect.

**440. SEC. 4.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

## Supplement.

Approved March 9, 1882.

P. L. 1882, p. 78.

Lots in boroughs may be cleared and the cost collected by action of debt.

**441. SEC. 1.** That the borough council of any borough incorporated under the act to which this is a supplement may, whenever they shall by ordinance declare it necessary, cause the brush and wild bushes to be removed from any lot in such borough, and may cause any uncovered hole or pit on any lot in such borough to be filled up, and the cost of such removal and filling shall be a lien upon such lot paramount to any other incumbrance except taxes, and may be collected with costs of suit by action of debt against the owner or owners of such lot in any court of competent jurisdiction, or if such owner or owners be non-resident, then by attachment; *provided always*, that fifteen days' notice to the owner or owners of such lot shall be given, before such removal or filling as aforesaid, which notice shall be in writing under the signature of the mayor and seal of the borough, and shall recite such ordinance and request such owner or owners to remove such brush or fill such uncovered hole or pit within fifteen days.

Proviso.

## Supplement.

Approved May 9, 1884.

P. L. 1884, p. 300.

Duties and powers of mayor.

**442. SEC. 1.** That section twenty-three of the act to which this is a supplement [see Sec. 434, *ante*] be and the same is hereby amended to read as follows:

[That it shall be the duty of the mayor of such borough to see that the laws of the state and the ordinances of the borough are faithfully executed in such borough, and to recommend to the council such measures as he may deem necessary or expedient for the welfare of the borough; he shall maintain peace and good order in said borough, and shall have power to suppress all riots and tumultuous assemblies, and cause to be arrested on his view, without process or warrant, and to commit for trial all persons violating, or whom he has reason to believe have violated, the laws of this state or the ordinances of the borough; he shall have authority, on complaint made to him on oath or affirmation, to cause any person or persons to be brought before him for any breach of peace or violation of any law of this state committed within said borough, or for disturbing the public tranquillity in the borough, and shall require such offender or offenders to enter into recognizance or commit them to the county jail to answer the charges before the county court; he shall be entitled to the same fees and possess the same power, authority and jurisdiction that is by law vested in justices of the peace of the several counties of this state in both civil and criminal causes; the borough marshal and policemen of said borough shall execute, anywhere within the county in which said borough is situated, all and every process issued by said mayor in pursuance of the authority conferred, and shall have power to arrest and take into custody, without warrant, any offender or offenders against the by-laws and ordinances of said borough, and to confine said offender or offenders in a place provided by said council until a hearing can be had before the mayor or one of the justices of the peace of said county; *provided*, that such hearing shall be held within twenty-four hours, unless a Sunday should intervene, and in such case within forty-eight hours after the arrest of the offender or offenders; that said borough marshal shall possess the same powers, take the same obligation, perform the said duties, be subject to the same penalties and receive the same fees as any constable of any township in this state.]

Duties and powers of marshal and policemen.

Proviso.

Repealer.

**443. SEC. 2.** That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

## Supplement.

Passed March 10, 1885.

P. L. 1885, p. 73.

Limit of annual tax for current expenses of borough.

**444. SEC. 1.** That it shall and may be lawful for the council of any borough incorporated under the act to which this is a supplement, to order and cause to be assessed and raised by tax every year, such sum of money,

not exceeding twenty mills on the dollar, as they shall deem expedient for the current expenses of such borough, and for all other objects and purposes authorized by the act to which this is a supplement; to be assessed and collected in the same manner as the assessors and collectors of townships are or may be by law required to assess and collect the state and county taxes; which taxes when collected shall be subject to the order of said council; and the said council may from time to time borrow such sum or sums of money, not exceeding ten mills on the dollar of the assessed value of the property in the borough in any one year, and then only for the purpose of anticipating the next year's taxes, in the corporate name of the borough, for all purposes for which they are authorized by the act to which this is a supplement to raise money by tax, as they deem necessary, and secure the payment thereof by bond or other instrument, under the common seal of the borough and signature of the mayor attested by the clerk, and to provide by tax for the payment thereof within the ensuing year; *provided*, that no loan shall be made without the concurrence of a majority of all the members of said council. [See Sec. 427, *ante*.]

Proviso.

Proceedings to impose additional tax.

**445. SEC. 2.** That whenever hereafter a greater sum of money than the said sum of twenty mills on the dollar shall, in the opinion of said council, be necessary to be raised in any one year for the use of such borough, then and in such case the said council are hereby authorized to give notice to the property-holders of the borough by advertisement, published in one newspaper, if any there be, printed in the county in which such borough is situate, for at least two weeks, once in each week, before acting thereon; and by printed handbills put up in five of the most public places in such borough for a like period, stating the sum of money necessary to be raised and the purposes and uses for which such money is needed, and upon obtaining the written consent of persons representing one-half or more of the taxable property in said borough, as represented by the duplicates of the borough assessor for the previous year, said members of council may proceed to vote thereon; and every sum of money so voted by any resolution of said council to be raised by tax in said borough, shall be assessed and collected the same as other taxes are assessed and collected; *providing always*, that whenever council shall, by a unanimous vote, declare any sum, not exceeding two thousand dollars in any one year, to be necessary for the repairing or maintaining of the beach front, such sum so voted upon shall be assessed and collected in the same manner that the other taxes are assessed and collected, and said council may, if by a unanimous vote they declare it necessary, borrow such sum in anticipation of its assessments and collection, giving therefor such bond or bonds as they are hereinbefore authorized to issue. [See Sec. 428, *ante*.]

Proviso.

**446. SEC. 3.** That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

## Supplement.

Passed March 16, 1885. P. L. 1885, p. 97.

**447. SEC. 1.** That section twenty-four of an act entitled "An act for the formation of borough governments in seaside resorts," approved March twenty-ninth, one thousand eight hundred and seventy-eight [see Sec. 435, *ante*], be amended to read as follows:

[That this act is not intended to interfere with any seaside resort now existing within this state, or to repeal any laws heretofore made for the government of the same.]

Restriction of act.

## Supplement.

Approved April 6, 1886. P. L. 1886, p. 183.

**448. SEC. 1.** That section one of the act entitled "An act for the formation of borough governments in seaside resorts," approved March twenty-ninth, one thousand eight hundred and seventy-eight [see Sec. 412, *ante*], shall hereafter read as follows:

When inhabitants of any township or part of a township, being a seaside resort, may become a body corporate under title of borough, &c.

[That the inhabitants of any township or part of a township, which is a seaside resort for summer visitors, embracing within an area not to exceed two square miles taxable property of the amount of sixty thousand dollars or more, may become a body corporate and politic in fact and in law under the title of "the borough of ———," whenever at a general or special election called for that purpose it may be so decided by a majority of the votes of the electors of such township or part of a township; the electors shall be such persons as are qualified to vote at any election for state and county officers.]

## Supplement.

P. L. 1886, p. 349.

Passed May 11, 1886.

Common council empowered to provide by ordinance for grading and graveling streets.

**449. SEC. 1.** That the common council of all boroughs incorporated or organized under the provisions of the act to which this is a supplement, shall have power, by ordinance, to provide for the grading and graveling of the streets in such borough in the following manner, viz.: upon the majority of the property-owners on any street or avenue, or specified part thereof, making application to the borough council for the grading and graveling of any street or avenue, or specified part thereof, such council may authorize such street or avenue, or specified part thereof, to be graded and graveled in a specified manner and within a specified time; and if, at the end of the time so specified by such council, the owners of the property on such street or avenue, or part thereof, shall have neglected to grade and gravel the same, or any part thereof, it shall be lawful for such borough council to cause the same to be graded and graveled at the expense of such borough, and the costs of such grading and graveling may be assessed by such borough against each property adjoining such grading and graveling, to the extent to which each of such properties is severally benefited by such grading and graveling.

Street committee to assess amounts upon property benefited.

**450. SEC. 2.** That the street committee of each such borough shall, upon the completion of any grading and graveling performed by such borough in pursuance of the preceding section, make an assessment of the several amounts which each of such adjoining properties have been benefited by such street improvement, and file such assessments with the clerk of such borough, whereupon the same shall become a lien upon the land so assessed; and if any such assessment shall remain unpaid by the owners of the land so assessed for the space of thirty days after the same is so filed with the said borough clerk, it shall be lawful for such borough council to forthwith cause such lands to be sold for the payment of such assessment, in the same manner as land is now sold by law for taxes.

If assessments are not paid lands may be sold.

**451. SEC. 3.** That in all cases where any street or alley, or part thereof, in any such borough has been graded, graveled, or graded and graveled, and the cost thereof paid by such borough and charged to the owner or owners of the adjoining properties, and such owner or owners have neglected or refused to pay for the same, it shall be lawful for the street committee of such borough to meet and assess against such adjoining properties the amount that each such property has been benefited by such street improvement, and after such assessment shall have been on file with the borough clerk for thirty days, such assessment may be enforced as provided for in the preceding section.

Owners refusing or neglecting to pay assessments heretofore made, street committee to re-assess benefits.

## Supplement.

P. L. 1886, p. 395.

Passed June 1, 1886.

Borough councils may pass ordinances to establish building lines.

**452. SEC. 1.** That the borough councils of all boroughs incorporated, or hereafter to be incorporated, under the provisions of the act to which this is a supplement, shall have power, by ordinance, to regulate, establish and enforce the observance of building lines in their respective boroughs, providing said act shall in no wise interfere with such building lines as may have heretofore been established.

## Supplement.

Approved March 17, 1887.

P. L. 1887, p. 33.

**453.** SEC. 1. That it shall be lawful for any borough incorporated under the act to which this is a supplement, to build, construct, operate and maintain water works for the purpose of supplying the inhabitants of such borough with water.

Boroughs may build, construct and operate water works.

**454.** SEC. 2. That it shall be lawful for such borough, for the purpose of erecting, constructing and operating such works, to issue and sell its bonds to an amount not to exceed thirty-five thousand dollars; *providing, however,* such bonds shall not bear interest at a rate in excess of six per centum per annum, or be sold for an amount less than the par or face value thereof; *and provided further,* that such bonds shall in no case be issued, unless a petition be first presented to the council of such borough petitioning said council to issue such bonds, which petition shall be signed by persons representing at least one-half the taxable property within the limits of such borough, as shown by the last duplicate of the assessor.

Bonds may be issued therefor.

**455.** SEC. 3. That whenever any such borough shall, by ordinance or resolution, determine to erect water works, it shall be the duty of the clerk of such borough to transmit without delay a copy of such ordinance or resolution to the secretary of state, who shall file the same in his office, whereupon three freeholders, residents of the state of New Jersey, shall be forthwith appointed to be known as "the water commissioners of the borough of \_\_\_\_\_," whose duty it shall be to erect, construct, maintain and operate such water works for and on behalf of such borough.

Proceedings for appointment of water commissioners, &c.

**456.** SEC. 4. That one of said commissioners shall be appointed by the governor of the state of New Jersey, and two of said commissioners shall be appointed by the council of the borough in which such water works are to be constructed and operated; and said commissioners shall serve as such for the term of three years and thence until their successors are appointed; and the appointment of the successor of the commissioner appointed by the governor shall be made by the governor, and the appointment of the successors appointed by the council shall be made by the council.

Commissioners, by whom appointed and term of office.

**457.** SEC. 5. That said commissioners shall have the entire superintendence and control of the construction and operation of said water works, and shall determine the place and manner of their construction and operation, and shall in the name of such borough execute and consummate all necessary and appropriate contracts and agreements, purchases of land and materials, and perform all other acts necessary to the construction and operation of such water works, and shall draw all necessary orders on the fund provided for the erection, maintenance and operation of said works, for the payment of the costs and expenses thereof, and pay into the borough treasury all moneys received in the operation of the same.

Powers and duties of commissioners.

**458.** SEC. 6. That on the completion of said works, said commissioners shall prepare a report of the same, which report shall set out at length the work accomplished by said commissioners together with a full and complete statement of the costs and expenses of the same; which report shall be prepared by said commissioners in duplicate, verified by their affidavits, and one copy of the same filed with the council of said borough, and one copy with the secretary of state.

When works are completed, report to be made.

Where filed.

**459.** SEC. 7. That from and after the completion of said water works, said commissioners shall make report quarterly to the council of said borough of the expenditures and receipts during each such quarter, and shall annually make a sworn report to said council and secretary of state showing the condition of said water works, and a summary of the receipts and expenditures during the preceding year.

Quarterly reports to be made.

**460.** SEC. 8. That in the event of any vacancy occurring by other cause than expiration of a term of office in the office of commissioner, such vacancy shall be filled by appointment made by the council of said borough for and during such unexpired term.

Vacancies, how filled.

## BOROUGHES.

Commissioners  
to give bonds.

**461. SEC. 9.** That each of said commissioners shall, before entering on the duties of his office, execute a bond to the borough for which they are appointed, with sufficient freehold security, in the sum of ten thousand dollars, to well, faithfully and honestly execute and perform the duties of his office to the best of his ability and understanding.

Compensation.

**462. SEC. 10.** That each of said commissioners shall annually receive as a compensation for his services the sum of two hundred dollars.

## Supplement.

Approved February 29, 1888.

P. L. 1888, p. 108.

Books and records  
of ordinances and  
by-laws to be re-  
ceived in evi-  
dence.

**463. SEC. 1.** That the books of records of the ordinances and by-laws of any borough incorporated under the act to which this is a supplement, shall be taken and received in courts of law as evidence of the due passage and publication by the borough council of such borough of all ordinances and by-laws recorded therein; *and further*, the volume of ordinances and by-laws printed and published by authority of such borough council, shall, in like manner, be taken and received as evidence of the ordinances and by-laws of such borough, and the publication and due passage of the same; and the publication and due passage of such ordinances and by-laws shall in all cases be presumed to have been made until the contrary be proved.

## Supplement.

Approved March 22, 1888.

P. L. 1888, p. 194.

How borough may  
extend corporate  
boundaries.

**464. SEC. 1.** That any borough incorporated under the provisions of the act to which this is a supplement, may extend its corporate boundaries in the following manner: upon a petition being presented to the borough council of such borough, setting forth the boundaries of the land so to be included within the limits of such borough and signed by persons owning at least two-thirds of the land described in said petition, and petitioning the borough council to extend the limits of said borough so as to include said land, the borough council may pass an ordinance enacting and ordaining that the boundaries of the borough shall be extended so that the land described in said petition may be included therein, which said ordinance shall set forth specifically the boundaries of the land so to be added to said borough.

Copy of ordinance  
to be sent to  
county clerk and  
secretary of state.

**465. SEC. 2.** That after said ordinance shall have been passed, approved by the mayor of said borough, and advertised according to law, a copy of the same shall be forthwith transmitted by the borough clerk of such borough to the county clerk of the county in which such borough is situate, and also a copy of the same transmitted to the secretary of state, and upon said copies of said ordinance being filed in said offices of said county clerk and secretary of state, the land so set forth in said petition and ordinance shall form a part of said borough and become subject to all the laws and ordinances regulating and governing the same.

## Supplement.

Approved March 22, 1888.

P. L. 1888, p. 197.

Certain boroughs  
heretofore incor-  
porated declared  
legal.

**466. SEC. 1.** That all boroughs heretofore incorporated under the act to which this is a supplement, embracing within their corporate boundaries an area exceeding two square miles, where there has been held one or more elections for the purpose of electing borough officers, and where the officers so elected have held and exercised their several offices, be and the same are hereby confirmed and declared to be legal and effectual to the extent that the same would have been valid, legal and effectual if it had been legally incorporated.

## Supplement.

Approved March 23, 1888. P. L. 1888, p. 246.

**467.** SEC. 1. That the twenty-first section of an act entitled "An act for the formation of borough governments in seaside resorts," approved March twenty-ninth, one thousand eight hundred and seventy-eight [see Sec. 432, *ante*], shall be amended so as to read as follows:

[That the assessor shall assess and the collector shall collect the taxes in the same manner as the assessors and collectors of townships in this state are required by law to assess and collect, and in case of the non-payment of taxes the said collector shall proceed to enforce the collection thereof as required by law of township collectors in this state; and that all laws now applicable, or which may hereafter be applicable to the assessing and collection of taxes in the several townships of this state shall be held to apply to the assessing and collection of taxes in the boroughs incorporated or to be incorporated under this act.

How taxes assessed and collected.

**468.** SEC. 2. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Repealer.

## Supplement.

Approved April 2, 1888. P. L. 1888, p. 363.

**469.** SEC. 1. That the omissions of the proper officers to file with the secretary of state an official certificate of the election and boundaries decided upon in accordance with, and within the time provided by the sixth section of the act to which this is a supplement, shall not invalidate the incorporation of any borough heretofore incorporated under said act; *providing*, such certificate shall have been regularly filed in accordance with said section in the clerk's office of the county where such borough is situate; *and providing further*, that a certified copy of the certificate so filed in such clerk's office, be filed in the office of the secretary of state within thirty days after the approval of this act.

Incorporation not invalidated by omission to file certificate with secretary of state.

An act to authorize boroughs in this state, located on or near the ocean, and embracing within their limits or jurisdiction any beach or ocean front, to lay out and open streets and drives, and construct public walks along and upon the beach or ocean front, to grade, protect and otherwise improve the same, to provide the money necessary therefor, and to regulate the use thereof.

Approved May 7, 1889. P. L. 1889, p. 385.

**470.** SEC. 1. That it shall be lawful for the common council or other governing body in the boroughs of this state, located on or near the ocean and embracing within their limits or jurisdiction any beach or ocean front, by an ordinance or ordinances duly passed for that purpose, as herein provided, to lay out and open streets and drives and construct public walks along the beach or ocean front, and in like manner to grade and properly protect or otherwise improve the same, whether such street, drive or public walk be laid out, opened or constructed wholly or partly between high and low-water mark, or wholly or partly on land covered by water.

Municipal authorities authorized to pass ordinances to lay out streets, drives and walks.

**471.** SEC. 2. That where, in any borough, an ordinance has been duly passed and approved for this purpose, designating therein the street or streets, drive or drives, walk or walks which it is the intention of such borough to lay out, open, construct and properly protect, the character of the improvements intended to be made, which ordinance or ordinances shall be published at least ten days after it shall be ordered to have a third reading, and before final passage, in the newspaper or newspapers in which the official notices of such city are now or may be hereafter published, it shall be the duty of the city or borough counsel, or other principal law officer of such city, on behalf of such city or borough, to make application to the circuit court of the county wherein such city or borough is situate for the appointment of three commissioners to estimate the damages and

When ordinance passed, counsel to apply to circuit court for appointment of commissioners to estimate damages and benefits.

What damages shall include.

Notice.

Commissioners to take oath.

Powers and duties of commissioners.

Proceedings for confirmation of report.

Copy transmitted to borough clerk.

Authorities to order assessment to be collected.

May make separate reports.

When assessment of damages has been made owners of lands may demand award, &c.

In default of payment action may be maintained.

benefits which the opening, laying out, construction or improvement of any such street, walk or drive will occasion, with protection of the same; all such damages shall include the value of the land taken, as well as the injury to the owner or owners of the remaining land, by reason of such taking; notice of the time when and place where such application will be heard shall be given, as the court shall direct and may be either personal or by publication; upon satisfactory evidence of such notice having been given, the said court shall, without unnecessary delay, appoint the said commissioners, who shall be a freeholder in the borough for which the application is made; when so appointed the said commissioners shall, within ten days after their appointment, take and subscribe an oath before some person duly qualified to administer oaths, faithfully and impartially to execute the duties imposed upon them as such commissioners, and they shall proceed without unnecessary delay to the execution of their duties; in case of the death, resignation, refusal to serve or disability of any commissioner so appointed the vacancy shall be filled by the said court, as soon as may be, on application as aforesaid.

**472. SEC. 3.** That the said commissioners so appointed shall, immediately after they are qualified as herein directed, give notice by advertisements in the newspapers in the county where said borough is located, in which the public laws and official notices are printed, of the time and place of their meeting, at least ten days before the said meeting; and the said commissioners, or a majority of them, when met, shall have power to examine witnesses, under oath, to be administered by any one of them, to enter upon and view the premises, and adjourn from time to time; and they shall make a just and true estimate and assessment of the damages and benefits as aforesaid, and make report of the same to the said court, signed by the said commissioners, or any two of them; and the said court shall cause such notice to be given as it shall direct, of the time and place of hearing any objection that may be made to such assessment or assessments; 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 commissioners for revision and correction, 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 the said court in the manner aforesaid, as right and justice shall require, and so from time to time until 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 borough as the owners of any land and real estate affected thereby; and the said court shall thereupon cause a certified copy of the said report to be transmitted to the borough clerk, with a certified copy of the rule of said court confirming the said report; and the common council or other governing body of the said borough, shall thereupon order and cause the said assessment so made to be collected or the damages awarded to be paid as herein provided; and the said commissioners can include in one report an estimate and assessment of damages and assessments for benefits for any such opening or improvement, or may make separate reports thereof, as may be deemed most advisable by them.

**473. SEC. 4.** That whenever any estimate and assessment of damages have been made and reported, and certified as aforesaid, it shall be the duty of the common council or other governing body, within thirty days, to place in the treasury of the said borough a sufficient amount of money to pay the damages so estimated and awarded, and the owners of land taken or other persons entitled thereto shall be entitled to demand and receive the same from the treasury of such borough, or, in default thereof, may have an action against such borough to recover the same in any court having jurisdiction thereof; and the lands and real estate so condemned

shall, upon making such deposit, become the property of such borough for the use for which the same are taken, and such borough shall be entitled to the possession thereof immediately, and the common council shall in like manner, upon any report of benefits having been received and certified as aforesaid, order and direct the collector or collecting officer of such borough to make an abstract of such assessment, and enter the same in a book or books to be kept for that purpose, and to give notice thereof, either personally or by publication, for at least ten days, in the newspapers, published in the county where said borough is located, publishing the official notices thereof, stating in general terms the streets or sections of streets and lands comprised in such assessment, and requiring the owners of land and real estate assessed, as stated in the said report, to pay the amount of the assessments so made, to the treasurer of such borough or to the other proper officer authorized to receive the same, within sixty days from the giving or publication of said notice; and all such assessments for benefits shall be and constitute a prior and first lien upon the lands and real estate upon which the same are imposed, and the same may be sold as hereinafter provided, to collect the amount of the assessment so made; it shall be the duty of the said commissioners in making their said report to annex thereto proper maps showing thereon the lands taken and condemned, and the amount awarded therefor, and the names of the owners thereof, so far as the same may be ascertained, and where they cannot be ascertained, such award shall be made to the owners as "owners unknown," and also a designation and description of the lands assessed for benefits, with the amounts so assessed on each plot or piece of land, and the names of the persons who are the owners thereof, so far as the same can be ascertained, and when they cannot be ascertained they shall be designated as "owners unknown."

Assessments to be first lien on lands.

**474. SEC. 5.** That if in any case an award of damages is made to any person who is not resident in such borough, or upon due inquiry cannot be found therein, or is a lunatic, or idiot, or under age, or is for any other lawful reason incapacitated to receive the same, or will not accept the same when tendered, that the borough treasurer shall make an affidavit of such fact and shall file the same with the borough clerk, and the common council or other governing body of the borough shall, after inquiry into the facts of the case, direct the amount of such assessment to be paid into the treasury of such borough for the use of the person or persons to whom the same may be due, and the said moneys so placed in the said treasury shall be paid to the person or persons entitled to receive the same, but without interest, except from the time that a lawful demand shall be made therefor and payment thereof refused, and any person interested in the said moneys may make application to the circuit court of the county wherein such borough is situate, and the said court shall make inquiry on such application, and make such order in relation to the payment and distribution of the said moneys as may be just and equitable in the premises, and the said court may make such rules and regulations not inconsistent with the provisions of this act, for the practice or procedure thereunder, as shall be deemed expedient.

Disposition of award of moneys to non-residents, lunatics, &c.

**475. SEC. 6.** That all assessments for costs, damages and expenses which shall be incurred in the opening, laying out or construction of any street, public walk or drive, and protection of the same, or for the improvement thereof made under the authority of this act, or any supplement thereto, shall be assessed by the said commissioners upon all the owners of land and real estate in the said borough peculiarly benefited thereby, in proportion as nearly as may be to the advantage each shall be deemed to acquire, and in case the costs, damages and expenses shall exceed the amount of the said benefits, such benefits shall be assessed upon and paid by such borough.

Assessments for costs, damages, &c., to be assessed upon owners of lands, &c.

**476. SEC. 7.** That in order to provide for the payment of the costs, damages and expenses which may be incurred in making any public improvement under the provisions of this act, it shall be lawful for the common council or other governing body of the said borough in

Authorized to issue bonds to provide for payment of costs, damages, &c.

## BOROUGHES.

- the name of said borough to issue its bonds in any sum not exceeding in the aggregate one hundred thousand dollars, to be designated "borough improvement bonds," which bonds shall run for any period not exceeding twenty years and bear interest at any rate not exceeding six per centum per annum, payable semi-annually, and may be sold and disposed of by the said borough at any sum not less than par, the proceeds of which shall be devoted exclusively to the payment of the costs and expenses of such improvements; and it shall be lawful for the said borough, in anticipation of the issue of such bonds, to issue temporary improvement certificates for a like amount, to run for a period not exceeding one year, payable with interest at a rate not greater than six per centum, which temporary certificates shall be paid out of the proceeds of the sale of the bonds hereby authorized to be issued, and all benefits assessed for improvements made under the authority of this act shall be devoted exclusively to the payment of the interest and principal due upon the bonds hereby authorized to be issued, and shall be paid to the commissioners of the sinking fund of such borough for that purpose, where sinking fund commissioners exist in any such city or borough, and where no such commissioners exist shall be held by the treasurer of said city or borough for this purpose, and may be invested from time to time as the common council or other governing body may direct; and it shall be the duty of the said common council or other governing body to provide by taxation such sum, in addition to the amount so assessed for benefits, in the annual tax levy of such city or borough, as will be sufficient to create a fund to pay the interest of the said bonds so authorized to be issued as it falls due, and the principal of the said bonds when they shall mature; and every such borough shall have authority to levy and collect taxes for this purpose.
- 477. SEC. 8.** That the commissioners appointed by virtue of the provisions of this act shall receive such compensation for the services rendered by them as the common council or other governing body shall by resolution order and direct, not exceeding five dollars per day for each day's services rendered by them, and the same and all expenses incident to the execution of the provisions of this act shall be deemed part of the expenses of such improvement and be included in the cost of the same; and it shall be the duty of the commissioners appointed by virtue of this act, in making their report of any assessment for benefits made by them, to estimate and state therein the cost of the improvement for which the benefits are so estimated and assessed, in which they shall include the costs authorized by this act.
- 478. SEC. 9.** That in all work done in constructing streets, walks and drives, and protection of the same under the authority of this act, or in improving the same, the common council or other governing body shall appoint a committee to be called the "committee on streets, walks and drives," to consist of not more than five members, of said body, and the said committee, before proceeding to perform the said work or any part thereof, shall cause plans and specifications to be prepared therefor, and shall cause public notice to be given by advertisement of the work needed to be done and the material to be used therefor, inviting bids or sealed proposals therefor at least ten days before awarding the same as hereinafter provided, in the papers publishing the official notices in such borough or county, and they may give such further publication thereof as they may deem proper and advisable, and at the time and place designated in such notice they shall receive and open sealed proposals for the work so to be done and materials to be furnished, and shall award the same to the lowest bidder therefor; *provided, however*, that it shall be competent for the said committee to reject any and all bids so offered, if in their judgment the interest of the borough shall require such rejection, and they may advertise again for such sealed proposals in the same manner until the said work shall be finally awarded; contracts for all such work and material shall be made in the name of the borough, and such regulations for letting such work and for securing the performance of the same, as the common council or other governing body
- Amount.
- May issue temporary improvement certificates.
- Compensation of commissioners.
- Commissioners to estimate benefits.
- Common council to appoint committee.
- Committee to prepare plans and advertise for proposals.
- Proviso.

may require, may be made, and all such contracts may be signed on the part of the borough by the mayor and attested by the borough clerk.

**479. SEC. 10.** That in case any assessment for benefits, made under the provisions of this act, shall be paid on or before the expiration of the time limited in the notice herein directed to be given, no interest thereon shall be charged or collected, but if not paid within that time, interest at the rate of seven per centum per annum shall be charged and collected from the date of the final confirmation of the report of the commissioners; and it shall be lawful for the common council or other governing body in any such borough, by ordinance, to provide for the sale of all lands and real estate on which such assessments have been made which remain unpaid for one year after the date of final confirmation; every ordinance passed for this purpose shall require notice to be given of the time and place at which such sale or sales shall be made, the officer or officers by whom the same shall be conducted, which notice shall not be less than four weeks; and every such ordinance shall provide for the redemption of such lands and real estate by the owner, mortgagees, judgment creditors and other persons having any estate therein, giving such person not less than six months within which to redeem the same after notice of the sale thereof, and shall provide also for the execution and delivery of proper deeds of conveyance therefor; all such proceedings shall be made to conform as nearly as may be with the provisions made for the sale of lands and real estate sold for taxes and assessments, adjusted and fixed under an act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates and water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six, and the supplements thereto; all conveyances made in pursuance of this authority shall convey to the purchaser or purchasers the title of the lands sold in fee-simple, and the borough may be a purchaser at any such sale, with all the rights of a purchaser.

Assessments for benefits to bear interest.

Sale of lands for non-payment of assessments.

Proceedings to conform with the provisions of a certain act.

**480. SEC. 11.** That where, in any borough, streets, walks or drives are laid out, protected and constructed under this act, the common council or other governing body may, by ordinance, regulate the use thereof, and enforce such regulations and rules as may be adopted by reasonable penalties which may be imposed for revenue.

Use of streets, &c., may be regulated by ordinance.

**481. SEC. 12.** That this act shall be deemed a public act, and shall take effect immediately.

When act to take effect.

### V. Miscellaneous borough acts.

An act for the classification of boroughs and incorporated villages of this state for the purposes of municipal legislation in relation thereto.

Approved March 23, 1883.

P. L. 1883, p. 157.

**482. SEC. 1.** That from and after the passage of this act, the classification of the boroughs and incorporated villages of this state shall, for the purposes of municipal legislation in relation thereto, be as follows, viz.: "boroughs of the first class," "boroughs of the second class" and "boroughs of the third class."

Boroughs divided into three classes for municipal legislation.

**483. SEC. 2.** That "boroughs of the first class" shall consist of all boroughs and incorporated villages in this state that have within their territorial limits a population exceeding three thousand inhabitants; that "boroughs of the second class" shall consist of boroughs and incorporated villages in this state that have a population within their territorial limits of not less than fifteen hundred nor more than three thousand inhabitants; and that "boroughs of the third class" shall consist of all boroughs and incorporated villages in this state not embraced within either the first or second class as herein distinguished.

Classes distinguished by population.

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What shall be a sufficient classification.

**484. SEC. 3.** That it shall be a sufficient classification of boroughs and incorporated villages to which any law hereafter enacted shall apply, to refer in any such law to boroughs and incorporated villages under the classification herein provided by the classification herein designated, and such law shall be construed to apply to and embrace all boroughs and incorporated villages of the class referred to in the act; and all courts of this state shall take notice of this classification and construe all legislation founded upon the classification herein designated, as if this act were a part of the law under consideration, when any law passed on the basis of the classification in this act shall in any wise be called in question.

**An act concerning certain boroughs.**

P. L. 1879, p. 335.

Approved March 14, 1879.

Commissioners of streets to pass ordinances to regulate grades of wagon-ways, &c.

**485. SEC. 1.** That the commissioners of streets of any borough in this state having less than two thousand inhabitants, shall have the full power and authority to pass ordinances to regulate and grade the wagon-ways, gutters and watercourses of the public streets in said boroughs, and shall have an authority to exercise all such powers as are now or hereafter by law may be vested in township committees in this state, relating to high-ways.

Additional money necessary, how assessed and collected.

**486. SEC. 2.** That any and all additional sum or sums of money to be used for the purposes aforesaid, shall be assessed, collected and paid over in the same manner as other taxes are assessed and collected in townships in this state; *provided*, that said additional sum shall not exceed one thousand dollars, nor be less than five hundred dollars; *and provided also*, that no money raised at any town meeting of any township wherein said borough is situate, to be used for road purposes outside of the limits of said borough, shall be assessed upon the persons or property within the limits of said boroughs; *provided further*, that no money raised at any town meeting of any township wherein said borough is situated, to be used for road purposes within the limits of said borough, shall be assessed upon the persons or property outside the limits of said boroughs.

Poll tax.

**487. SEC. 3.** That every legal voter resident in said borough shall annually be assessed a head or poll tax of one dollar each, which said sum so assessed shall be collected and paid as other taxes are assessed and collected in townships in this state.

Poll tax used for lighting streets.

**488. SEC. 4.** That the head or poll tax so ordered to be raised shall be used for the purpose of lighting the street lamps only; all borough taxes shall be assessed and collected by the assessor of the township wherein said borough is situate, by a separate and distinct assessment, in the same manner and for one-fourth of the compensation as other taxes are assessed and collected in townships in this state, which sum of money so raised shall be paid by the collector of said township upon presentation to him of an order signed by the said commissioners of streets, or a majority of them.

Repealer.

**489. SEC. 5.** That all acts or parts of acts inconsistent with this act be and the same are hereby repealed.

**An act to provide for the election of a chosen freeholder in incorporated boroughs.**

P. L. 1885, p. 29.

Passed February 17, 1885.

One freeholder elected annually.

**490. SEC. 1.** That the legal voters of each incorporated borough within this state shall at the next and each succeeding annual borough election vote for and elect one freeholder, commonly called a chosen freeholder, who shall hold his office for one year; *provided*, the voters in such borough do not at present vote with the township in which it is situate for freeholder.

To be members of board of freeholders of county.

**491. SEC. 2.** That the chosen freeholder so elected by any incorporated borough shall thereupon be and become a member of the board of chosen freeholders of the county in which such borough is situate, the same in all respects as though he had been elected by the voters of any township or ward in said county.

**An act to provide for the election of chosen freeholders in incorporated boroughs.**

Approved April 8, 1887.

P. L. 1887, p. 140.

**492. SEC. 1.** That the legal voters of each incorporated borough within the state containing a population of not less than three thousand inhabitants, shall at the next and each succeeding borough election for chosen freeholder, vote for and elect one chosen freeholder, which freeholder shall hold office for the term of office prescribed under existing laws.

Legal voters to elect one chosen freeholder.

**An act concerning boroughs.**

Approved March 19, 1889.

P. L. 1889, p. 65.

**493. SEC. 1.** That in any case where anticipated revenues have been or shall be appropriated in the annual appropriation of any borough, it shall be lawful for any council having the control of the finances of such borough to borrow temporarily, in the name of such corporation, any sum not exceeding the amount of such anticipated revenue.

Authorized to borrow temporarily amount of anticipated revenue.

**An act to regulate the number and term of office of members of the common council in boroughs of the second class.**

Approved April 2, 1889.

P. L. 1889, p. 145.

**494. SEC. 1.** That in boroughs of the second class the common council shall consist of six members in addition to the mayor, if there be a mayor, and that all common councilmen, other than the said mayor, shall hereafter be elected for the term of three years; *provided, however*, that at the first election held after the passage of this act, the ticket voted shall designate the names of two common councilmen who shall serve for the term of one year, two who shall serve for the term of two years, and two who shall serve for the term of three years, and that at each succeeding election two common councilmen shall be elected for the term of three years.

Number of members of common council and term.

**495. SEC. 2.** That the mayor of said boroughs of the second class, if there be a mayor, shall be elected and serve for the term as heretofore provided by law.

Term of mayor.

**496. SEC. 3.** That all vacancies in said common council shall be filled for the unexpired term only, and in manner as heretofore provided by law.

Vacancies in common council, how filled.

**497. SEC. 4.** That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and that this act take effect immediately.

Repealer.

**An act to authorize boroughs to order and regulate the construction of sidewalks and to provide for the payment of the expenses of the same.**

Approved April 14, 1891.

P. L. 1891, p. 389.

**498. SEC. 1.** That the incorporated boroughs of this state shall have power through their several appropriate legislative bodies to pass an ordinance for the regulation, construction and repairs of sidewalks, and thereby to fix and determine the method in which sidewalks in such boroughs shall be constructed, repaired and maintained from material out of which the same shall be constructed; and also to provide for the payment of the cost of such construction, repair and maintenance; *provided, however*, that the property-owners may construct, at their own expense, sidewalks of any material that may be allowed by general ordinance of such borough.

Boroughs to repair sidewalks.

Proviso.

**499. SEC. 2.** That any such borough may prescribe by general ordinance in what cases such sidewalks shall be constructed, repaired and maintained at the expense of the abutting landowners; whenever in any borough it shall hereafter become the duty of any owner of abutting lands under the ordinance of a borough to construct or alter or repair any sidewalks or section thereof, the authorities of such borough having charge of the street affairs of the borough may cause a notice in writing to be served upon the owner or occupant of said lands requiring the necessary specified

Ordinances to prescribe in what case sidewalks may be constructed and repaired.

Notices, how served and published.

If property-owners do not comply with requirements, work to be done at their expense and cost to be a lien.

Assessments to be placed in tax bills.

Moneys to be credited to the account out of which the cost of work was paid.

work to said sidewalks to be done by said owner or occupant within a period of not less than twenty days from the date of service of such notice; whenever any lands are unoccupied and the owner cannot be found within the borough the same may be mailed, postage prepaid, to his or her post-office address, if the same can be ascertained; in case such owner is a non-resident of the borough and his or her post-office address cannot be ascertained, then the notice may be inserted for four weeks, once a week, in some newspaper of such borough; in case the owner or occupant of such lands shall not comply with the requirements of such notice it shall be lawful for the street department of the borough to cause the required work to be done and paid for out of the moneys of the borough to the credit of the street department; the cost of such work shall be certified by the person or persons having charge thereof to the person having charge of the collection of taxes and assessments in such borough; upon filing said certificate with the collector of taxes of said borough the amount of the cost of such work shall be and become a lien upon the said abutting lands in the front of or on the side of which such work was done; and it shall and may be lawful for the authorities in such borough to place the assessments made against any property improved in the manner specified in this act in the annual tax bills rendered to the owner or owners of such property, and the same may be collected in the same manner and by the same officers as taxes are or may be collected in such boroughs; in addition thereto the borough may have an action upon contract to recover the said amount against the owner of said lands in any court having obtained jurisdiction thereof; the certified copy of the aforesaid certificate shall in such an action be prima facie evidence of the existence of a debt due from the said owner to the borough.

**500. SEC. 3.** That all moneys recovered or paid to the borough under the provisions of the last preceding section shall be credited to the account out of which the cost of such work was paid.

**An act to authorize boroughs in this state to purchase sewer works and systems within the borough limits from individuals or corporations and to provide for the payment, operation and maintenance of the same.**

P. L. 1892, p. 196.

Approved March 23, 1892.

Boroughs may purchase sewer works.

**501. SEC. 1.** That whenever the governing body of any incorporated borough of this state shall deem it to the best interest of said borough to purchase any sewer works or systems of sewers located within the corporate limits of such borough from private individuals or corporations owning the same, they shall have the power and authority so to do, subject to the provisions hereinafter contained.

Resolution for purchase.

**502. SEC. 2.** That no systems of sewers shall be purchased under this act until the governing body of said borough shall first pass a resolution favoring the purchase of a sewer system located within the limits of said borough, which resolution shall state the name or names of the owners thereof, the streets and avenues through which its mains, pipes and conduits are laid and located, the price to be paid therefor, the terms of payment and the conditions and restrictions under which the same are to be purchased, if any; that said resolution, before it shall be legal or operative, shall first be submitted to the legal voters of said borough at a special election to be held for that purpose; that thirty days' notice shall be given of the time and place of holding said election, signed by the clerk of said borough, in one or more newspapers published and circulating therein, and, in addition thereto, said notice shall be posted in at least ten public places within the corporate limits; that said notice shall state the sewer system to be purchased, the price to be paid therefor and the conditions and restrictions under which the same is to be purchased, if any; that said clerk shall provide for each elector voting at said election, ballots to be printed or written, or partly printed and partly written, on which shall be the words, "for the purchase of the sewer system described in the

To be submitted to legal voters.

Notice of election.

What notice shall state.

Form of ballots.

resolution," or "against the purchase of the sewer system described in the resolution;" that the polls shall be open at seven o'clock in the morning and shall continue open until six o'clock in the evening, with the exception of from one o'clock to two o'clock in the afternoon, when the same may be closed; that said election shall be conducted by the borough election officers in the same manner as borough elections are conducted, except as herein stated, who shall return a statement of the result of said election to the governing body of said borough as soon as the same can be made, which said statement shall be entered in the regular book of minutes of said borough.

Opening and closing polls.

Manner of conducting election and returns.

**503.** SEC. 3. That should a majority of the legal votes, cast at said election, be in favor of the resolution for the purchase of the sewer system, described therein, it shall be the duty of the governing body of said borough to issue the bonds of said borough for the sum mentioned as the purchase price in said resolution; said bonds to bear a rate of interest not exceeding the legal rate, the principal to be payable in ten years or sooner, at the option of said borough; that it shall be the duty of said governing body to make sale of said bonds at not less than their par value, the proceeds thereof to be appropriated according to the provisions of this act.

Bonds issued.

Interest.

Not to be sold at less than par value.

**504.** SEC. 4. That the governing body of said borough, for the payment of said bonds and such interest as shall, from time to time, accrue thereon, shall have the authority to make three or more annual assessments upon the lands and real estate in front of, or on the side of which said sewers are laid and located, at a certain sum or amount per lineal foot, which said sum or amount shall be the same per foot in all parts of said borough; that should the sewer main run or be laid along the side and in front of houses or lots located on the corners of two or more streets or avenues, then the land shall be measured and the assessment made for the number of lineal feet on the street or avenue on which the connection to said sewer main is made, and not for lineal feet on other streets or avenues; that should sewer mains be laid in streets or avenues on which vacant corner lots are located, said vacant lots shall be assessed for the lineal feet front, if a sewer main is located in front of the same, if not, then said lot or lots shall be assessed for the lineal feet on the side thereof on which said sewer main is located; that should any property be connected to said sewer mains which is not located on any street or avenue through which a sewer main is laid, said property so connected shall be assessed the same per lineal foot front as properties located on streets and avenues having the sewer mains.

Assessments for payment of principal and interest.

How assessments shall be made.

**505.** SEC. 5. That said assessments shall be made by the borough assessor or other officer having authority to assess taxes therein for borough purposes, at the same time and in the same manner as the taxes for said borough are levied and assessed, and said assessments shall be collected by the borough collector or other officer having authority to collect taxes therein for borough purposes, at the same time and in the same manner as the taxes of said borough are collected, and shall have the same remedies for the enforcement of the payment thereof.

By whom made.

**506.** SEC. 6. That said boroughs shall have the authority, by resolution or ordinance, to extend said sewer systems, mains and pipes to such said streets and avenues within said boroughs as the governing bodies shall deem necessary for the protection of the public health, and the improvements of the sanitary conditions of said boroughs.

May extend sewer systems.

**507.** SEC. 7. That the governing bodies of said boroughs shall have the authority to assess the costs and expenses for extending said system of sewers, mains and pipes upon the lands and real estate in front or on the side of the streets or avenues through which said mains are laid or located at a certain equal sum per lineal foot, which said assessment shall be made and collected at the same time and by the same officers as tax assessments or levies are made and collected in said boroughs; and said boroughs shall have, in all respects, the same remedies for the enforcement of said assessments as are provided for the enforcement of taxes.

Assessments for extending.

Special sewer  
tax.

**508. SEC. 8.** That for the purpose of maintaining and operating said sewer system, and properly caring for the same, the said boroughs shall have the authority to impose a special sewer tax on all the lands and real estates within the corporate limits of said boroughs, which said tax shall not, however, in any one year exceed the sum of one dollar per thousand dollars on the assessed valuation.

**An act respecting licenses in incorporated boroughs.**

Approved March 28, 1892.

P. L. 1892, p. 293.

Common council,  
board of alder-  
men, board of  
commissioners  
or other govern-  
ing board to have  
power to establish  
ordinances for  
municipal pur-  
poses.

**509. SEC. 1.** That it shall be lawful for the common council, board of aldermen, board of commissioners or other governing board of any incorporated borough in this state, to make and establish ordinances for the following purposes, viz.: to license and regulate expressmen, trucks, hacks, cars, omnibuses, stages and all other carriages and vehicles used for transportation of passengers, baggage, merchandise and goods and chattels of any kind, and to the owners and drivers of all such vehicles and means of transportation, also auctioneers, common criers, hawkers, peddlers, pawnbrokers, junk wagons, bath-houses, news stands, sweeps, scavengers, traveling and other street shows, street exhibitions, organ-grinders, circuses, merry-go-rounds, toboggan slides, theatrical performances, plays, exhibitions, concerts, skating rinks, itinerant venders of merchandise, medicines and remedies, and also the place or premises in which or at which the different kinds of business or occupation mentioned herein are to be carried on or conducted, and to fix the rate of compensation to be paid therefor, and to prohibit all persons and places, and all vehicles unlicensed from acting, using or being used in said capacities, and for such uses and purposes, and to designate and locate stands and places which hackmen, cartmen and all other persons engaged in the carrying of passengers and merchandise shall be privileged to occupy when soliciting business, and to prohibit the occupying of other places for such purposes, and to fix and prescribe penalties for the violation of any such ordinance or ordinances or any section thereof, and that fees for such licenses may be imposed for the purposes of revenue; *provided, however,* that no person or persons shall be required to take out a license to sell any of the produce of his farm.

**510. SEC. 2.** That every justice of the peace in any county is hereby empowered, on oath or affirmation made according to law, that any person or persons has or may have violated any section of said ordinance, or any of the ordinances of said board in relation thereto, to issue process at the suit of such municipality aforesaid in the nature of a summons for said penalty, which shall be returnable in not less than one or more than ten entire days; such process shall state what section or sections of the ordinance has been violated by the defendant or defendants, and on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace or recorder shall proceed to hear the testimony, and to determine and give judgment in the matter without the filing of any pleadings, and a copy of the ordinance or section of the ordinance alleged to have been violated, certified under the hand of the clerk of the board, shall be taken as full and legal proof of the existence of such ordinance, and that all the requirements of law in relation to the ordaining, publishing and making the same so as to make the same legal and binding have been complied with, unless the contrary be shown; and the said court, justice of the peace, police justice or recorder shall give judgment for the penalty sued for and costs, if the defendant be proven guilty, and he may, at the request of the plaintiff, forthwith issue execution against the goods and chattels, and also against the body of the defendant or defendants without any special order being made to that effect for the amount of said penalty and costs, and if the same be not paid, and the officer is unable to find sufficient goods and chattels over and above such as are reserved by law to satisfy said execution in full, then he shall take the body of the defendant under said execution and deliver him to the sheriff of the county, who shall keep him in custody, in the jail of

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31V-128

Proviso.

Proceedings for  
violation of  
ordinances.

Penalty for vio-  
lation, and how  
recovered.

the county until he is entitled to release by operation of law, and no defendant against whom an execution shall be or remain unsatisfied, after being taken into custody, shall be entitled to any of the benefits or privileges of any the insolvent laws or acts of this state. (a)

**511. SEC. 3.** That all acts and parts of acts inconsistent with this act be and the same are hereby repealed. Repealer.

**An act concerning boroughs.**

Approved March 28, 1892.

P. L. 1892, p. 322.

**512. SEC. 1.** That it shall be lawful for the council or other governing body of any borough in this state to issue bonds of the said borough under the signature of the mayor and borough clerk, with the corporate seal affixed, to be styled "improvement bonds," the aggregate of which said bonds shall not at any time exceed ten per centum of the amount of the assessed valuation of the property in the said borough as shown by the assessor's duplicate for the preceding year; the said bonds to be issued in such sums, payable at such time or times, not longer than twenty years, and bear interest payable semi-annually at a rate not exceeding six per centum per annum, as the council shall by ordinance direct.

Boroughs may issue improvement bonds.

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S96-134  
29V-291  
31V-130  
32V-151

**513. SEC. 2.** That the proceeds of said bonds shall be appropriated, by council only, to the payment and cancellation of such indebtedness as shall have been previously incurred or may be incurred by such borough, by ordinance duly passed, for street or other improvements, for protection of property from encroachment of the sea, for lighting, for water, for drainage, for protection of property from fire or for laying out, opening, widening, vacating, altering, grading or extending of streets, avenues, roads, sidewalks and crossings, for the regulating, paving, graveling, curbing, cleaning and keeping in repair of the same, and for such other and necessary public improvements as shall be within the powers of the council of said borough by virtue of the acts under which the same are incorporated, or such other and further acts applicable thereto as may be now or hereafter enacted.

Proceeds to be appropriated to payment of indebtedness for improvements.

**514. SEC. 3.** That no such issue of bonds shall be made until the people of such borough shall vote upon the issue of such bonds, and if a majority of such legal voters voting at such election shall vote against such issue then no such issue of bonds shall be made.

People to vote upon issue of bonds.

**515. SEC. 4.** That whenever in the judgment of council it shall be necessary to issue bonds as aforesaid, they may by resolution fix the amount thereof necessary to be issued, and upon receiving and filing in the office of the borough clerk a petition or consent, in writing, signed by the owners of more than one-half in value of the taxable property in said borough, as shown by the assessor's duplicate for the preceding year, which petition or consent shall, as to each property-owner, specify the location and assessed value of his or her said property as shown by said duplicate, may direct a special election held to determine the question of such issue, of which special election at least thirty days' notice shall be given by advertisements signed by the borough clerk and posted in at least three public places in such borough, and printed once each week for at least three weeks in a newspaper printed and published in said borough, if any such exists, or if not, then in the county wherein said borough is situate.

Special election.

275-515  
37V-144

**516. SEC. 5.** That at such special election the only question submitted shall be "in favor of issue of improvement bonds," or "against issue of improvement bonds," which election shall be by ballot, shall be held by the election officers of such borough upon the day appointed by ordinance, and the polls shall be kept open the time provided by law.

Questions to be submitted at special election.

**517. SEC. 6.** That when the council of any borough shall issue bonds as herein provided, it shall and may be lawful for the said council to order and cause to be assessed and raised by tax every year such sums of money

Principal and interest to be raised by tax.

(a) The proceedings prescribed by this section are civil suits in the courts for the trial of small causes. *White v. Neptune City*, 27 Vr. 222.

in addition to other moneys to be raised by said borough, as may be requisite to pay the interest on said bonds and so much of the principal thereof as they may deem necessary and expedient, and to provide for the payment of said bonds when due.

#### Supplement.

Approved May 1, 1894.

P. L. 1894, p. 169.

When certain indebtedness for improvements has been incurred, payment shall be valid.

**518. SEC. 1.** That in all cases in which any street or other improvement within the purpose mentioned in the second section of the act to which this is a supplement shall have been heretofore completed, or shall be in process of completion, or any indebtedness for any such purposes shall have been heretofore incurred by the council of any borough in this state, or by any committee thereof, by resolution or otherwise, and proceeds of the sale of bonds provided for by said act shall have been or may be, by ordinance or resolution, appropriated for the payment of such indebtedness or any part thereof, or any payments shall have been made on account thereof, such improvement, appropriation and payments shall be deemed and taken to be and shall be as valid, lawful and effectual as if the improvement had been authorized, the indebtedness incurred and the appropriation made by ordinance; *provided, however,* that if said improvement shall have been made, or the indebtedness shall have been incurred by or under the direction of a committee, the same shall have been afterwards or shall be approved or authorized and confirmed by said council by ordinance duly passed and approved.

Repealer.

**519. SEC. 2.** That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

#### An act authorizing the construction of sewers and drains in incorporated boroughs.

Approved April 7, 1892.

P. L. 1892, p. 397.

Incorporated boroughs may construct and maintain sewers and drains.

**520. SEC. 1.** That it shall be lawful for the council or other governing body of incorporated boroughs of this state having authority by their charters by ordinance to make and adopt a general plan of sewerage and drainage for said boroughs, and having a public water-supply, whenever they shall have adopted a plan of sewerage or drainage, to enter into agreements with persons or corporations to pay said borough any portion or the cost of erection and maintenance of said proposed system of sewerage or drainage or to donate lands therefor in view of the benefits to be received therefrom; which agreements when duly reduced to writing and properly subscribed shall be valid and binding upon the parties thereto; the council may thereupon cause said proposed sewers or drains to be constructed in said borough, or any part thereof, establish and maintain one or more outlets or places of deposit for the sewage within or without said borough, cleanse and repair said sewers or drains and do all such other matters as may be needed for the perfect construction and maintenance of said system of sewerage or drainage at public expense; *provided,* that this act shall not authorize the construction of sewers or drains in any borough, unless one-half of the estimated cost thereof shall first be subscribed and the payment thereof to the borough be secured from private sources aforesaid.

Proviso.

Former contracts validated.

**521. SEC. 2.** That all proceedings, contracts or agreements preparatory to the construction of a system of sewers and drains heretofore taken in any borough under its charter, or any law of the state authorizing the construction of sewers or drains in incorporated towns or boroughs of the state, are hereby validated and made effectual as preliminary steps toward the construction of sewers or drains under this act.

Borough may acquire land.

**522. SEC. 3.** That whenever it shall be advantageous or necessary to build or extend any part of said system of sewers, or any of the outlets thereto, over, through or upon private lands or property in order to reach the outlet fields or places of deposit, or for the better sewerage or drainage

of the property in said borough, it shall be lawful for said borough to acquire land therefor in fee-simple or any lesser right and estate therein; they may negotiate with the owners thereof and agree upon a compensation for said fee-simple or lesser estate in said land; and make such compensation therefor as shall be reasonable, and thereupon shall receive from such owner or owners a conveyance of such land or estate therein to the borough.

**523. SEC. 4.** That in case no agreement can be made with the owner or owners of any such lands as aforesaid, as to the amount of compensation to be paid for such lands or for such estate therein as aforesaid, by reason of the unwillingness of said owners, or any of them, to accept such compensation as council may deem reasonable, or by reason of the absence from this state or legal incapacity of said owners, or any of them, or by reason of any owner being unknown, it shall be the duty of the circuit court of the county in which the borough wherein it is proposed to construct such sewer or drain is situate, or one of the judges of the supreme court at his chambers upon application to said court or judge by said council, after ten days' previous notice in writing of such application to the persons interested, if known and in this state, served in person or by leaving at the dwelling-house or usual place of abode of such owner or owners, or if unknown or absent from this state, or under age or other legal disability, after publication thereof for any term not less than two weeks in a newspaper published in such borough, which notice shall set forth in general terms a description of the lands required or in which such estate as aforesaid is required, to appoint three disinterested appraisers from the county wherein such borough is situate to determine the compensation to be paid for such lands or for such estate therein; and it shall be the duty of said appraisers to meet at such time and place as the court by its order shall appoint, of which meeting ten days' notice shall be given in a newspaper published in said borough, and after having taken an oath or affirmation faithfully and impartially to discharge the duties herein reposed in them, and after having carefully viewed the premises and given a hearing to all interested parties who shall appear before them and desire to be heard, within ten days after such meeting, to deliver to the borough clerk a written appraisalment, under the hands and seals of them, or a majority of them, of the award they have made, containing a full description of the lands in which such estate in fee-simple or such less estate as aforesaid shall be required; the borough clerk shall deliver such appraisalment to said council at its next regular or special meeting after the same shall be delivered to him, and the said council shall thereupon cause the same to be recorded in the clerk's office of the county, and may thereupon order the borough treasurer, or other proper officer, to make or tender payment of the sums awarded in such appraisalment to the respective owners of lands therein mentioned, and after such payment or tender of payment the said council, their agents and workmen, shall have power to enter upon and take possession of said lands for its purpose aforesaid; and in case any owner or owners of lands shall refuse to accept such payment upon tender made, or be under age or other legal disability, or be unknown or absent from the state, then and in such case it shall be sufficient for said borough treasurer or other officer to pay the amount of the award to any such owner into the circuit court of the county in which such borough is situate, subject to the order of said court, for the use of the party or parties entitled to the same; the costs of all proceedings in said circuit court shall be paid out of the borough treasury; in estimating the damages any owner of real estate will sustain by the construction of such sewer or drain across or upon his property, the commissioners in making their award shall have due regard as well to the benefits to be received by the property as to the damages sustained by the owner thereof by the construction of such sewer or drain.

Appointment of appraisers.

Duty of appraisers.

**524. SEC. 5.** That in case the council, or the owner or owners of said land or any of them, shall be dissatisfied with the award of the appraisers made as aforesaid, and shall apply to the circuit court at the next term

Circuit court may set award aside, and jury trial may be had.

after the said award shall be delivered to the said council, the court shall have power, upon good cause shown, to set the same aside and thereupon to direct a proper issue for the trial of the said controversy to be formed between the said parties, and to order a jury to be struck, a view of the premises to be had, and the said issue to be tried at the same or at any subsequent term of said circuit court, upon the like notice and in the same manner as other issues in the said court are tried; and it shall be the duty of the said jury to assess the value of the said land or estate therein required and the damages sustained, and if they shall find a greater sum than the said appraisers shall have awarded in favor of the said owner or owners, then judgment therefor, with costs, shall be entered against the borough and execution awarded therefor; but if the said jury shall be applied for by the said owner or owners, and shall find the same or a less sum than the appraisers shall have awarded, then the said costs shall be paid by the said applicants, and either deducted out of the said sum found by the said jury, or execution awarded therefor, as the court shall direct; but such application shall not prevent the workmen and agents of the borough from entering upon any such lands and constructing a sewer or drain thereon upon the award of the appraisers; *provided*, the amount of the award shall first be paid, or, in case the said award will not be received by said owner or owners upon a tender thereof, or the owner or owners are under a legal disability or absent from the state, or unknown, *then provided*, such award be first paid into the circuit court of the county for the use of such owner or owners; *provided further*, that if the council shall be dissatisfied, and make application as above to have the award of the appraisers set aside, it shall be a sufficient tender to the owner or owners of land, to pay the amount of the said award into the said circuit court, subject to the final determination of said appeal.

**525. SEC. 6.** That in order to meet the expenses of the construction of such sewers or drains the council may borrow the money necessary therefor, temporarily, upon the promissory notes of such borough, or may issue temporary improvement certificates therefor, from time to time, as the work progresses, or may temporarily use the money in the treasury of said borough, as council may direct; said notes or certificates to bear interest at a rate not exceeding six per centum per annum, and to be payable within two years from date of issue.

**526. SEC. 7.** That in order to provide for the payment of the cost of said sewers, when the same shall be completed and the cost thereof ascertained, it shall and may be lawful for said borough to issue bonds to run for a period not exceeding twenty years from date of issue, to bear interest not exceeding five per centum per annum, which bonds shall be styled sewer bonds and be executed under the corporate seal of said borough, and bear the signature of the mayor and clerk of said borough; coupons signed by the mayor, for each half year's interest, shall be attached to each bond and numbered to correspond thereto, or said bonds may be registered, at option of the council; they shall be sold for not less than par; shall be exempt from tax in the hands of residents of said borough; and the council in order to meet the interest on said bonds and one-twentieth of the amount of the principal sum thereof, annually, from and after one year after their issue, shall order the needed money to be raised in the tax levy of said borough, on the taxable property therein, each and every year until the bonds are paid.

**527. SEC. 8.** That the total amount of promissory notes, certificates or bonds to be issued under authority of this act in any borough, shall not exceed in value two per centum of the taxables of said borough, and this act shall not be construed to authorize the council to waive or alter any existing limitation on the sum to be raised by tax in said borough in any one year.

Notes and improvement certificates may be issued.

Bonds may be issued.

Interest and principal to be raised by tax.

Limit of amount of notes or bonds.

## An act respecting licenses in the boroughs of this state.

Approved May 1, 1894. P. L. 1894, p. 171.

**528.** SEC. 1. [Amended by Sec. 532, *post.*]

**529.** SEC. 2. That the mayor of any such borough, the police justice or any justice of the peace of the county is hereby empowered, upon oath or affirmation made according to law, that any person or persons have or may have violated any section of the ordinance or of the ordinances of such borough adopted under this law, to issue process in the nature of a summons or warrant in an action upon contract, at the suit of said borough against the person so charged, which process shall, when in the nature of a warrant be returnable forthwith, and when in the nature of a summons shall be returnable in not less than one or more than ten days; such process shall state what section of the ordinance is alleged to have been violated by the defendant or defendants, and on the return of such process, or at any time for which the trial may be adjourned, the said mayor, police justice or justice of the peace shall proceed to hear the testimony and to determine and give judgment in the matter without filing any pleadings, and a copy of the ordinance or section of the ordinance alleged to have been violated, certified to under the hand of the clerk of said borough, shall be taken as full and legal proof of the existence of such ordinance, and that all the requirements of law in relation to the ordaining, publishing and making the same, so as to make the same legal and binding, have been complied with, unless the contrary be shown; and if the said mayor, police justice or justice of the peace shall find the defendant guilty, he shall give judgment for the penalty mentioned in the ordinance or section of the ordinance violated, and such costs as are allowed in the justice's court for like proceedings; and shall also at the same time and as a part of said judgment sentence the defendant, in default of the payment of the judgment and costs, to the county jail for any period not exceeding twenty days, in his discretion; either party shall have the right of appeal to the court of common pleas at any time within ten days from the date of judgment, upon giving a bond in double the amount of the judgment and costs, with two responsible freeholders, securities, residents of the county; a commitment, however, may issue at any time before the taking of appeal, for the imprisonment of the defendant, which shall be vacated either by appeal or by payment of the judgment and costs; the summons, warrant, commitment and all other writs herein requiring serving may be served by either the marshal of said borough or any constable.

**530.** SEC. 3. That where the mayor, police justice or justice of the peace has jurisdiction, no judgment rendered in any suit brought for the recovery of any penalty under this act or under any ordinance passed by authority hereof shall be removed to the supreme court or circuit court, by certiorari or otherwise, for the correction of any supposed error therein, but the party thinking himself aggrieved shall have relief upon the appeal only, and that both as to matter of law and matter of fact.

**531.** SEC. 4. That any borough of this state shall have the right to pass and enforce ordinances under the provisions of this act, notwithstanding that powers for like purpose may have been delegated to them in the act under which they are incorporated or the supplement thereto.

279-528  
532  
31V-128

Mayor may issue process against violators of ordinance.

Mayor or police justice may hear and determine case.

Penalty.

Defendant may have appeal to common pleas.

When certiorari shall not be allowed.

Any borough may operate under this act.

## Amendatory act.

Approved March 22, 1895. P. L. 1895, p. 490.

**532.** SEC. 1. That the first section of the above-mentioned act be and the same is hereby amended so as to read as follows:

[That it shall be lawful for the mayor and council, common council or other governing body in any borough of this state to make and establish ordinances for the following purposes, namely: to license and regulate the owners and drivers of express wagons, trucks, hacks, carts, omnibuses, stages and all other carriages and vehicles used for the transportation of passengers, baggage, merchandise and goods and chattels of every kind;

279-532  
A98-67  
29V-604

Governing body of any borough may make ordinances concerning licenses on various subjects.

And fix penalties  
for violation  
thereof.

also to license and regulate the owners and drivers of all vehicles used in connection with any business or occupation for the purpose of soliciting orders or delivering goods within the limits of the municipality; also to license and regulate all common cries, hawkers, peddlers, pawnbrokers, junk wagons, news stands, sweeps, scavengers, traveling and other street shows, street exhibitions, parades, circuses, concerts, theaters, skating rinks, merry-go-rounds, observation wheels, roundabouts, razzle-dazzles or circular swings, organ-grinders, itinerant venders of medicines and remedies, and merchandise, and to fix the license fees to be paid therefor, which may be imposed for the purpose of revenue; and also to designate and locate stands and places which hackmen, cartmen and all other persons engaged in carrying passengers, baggage and merchandise shall be privileged to occupy when soliciting business, and to prevent the occupying of other places for such purpose, and to fix and prescribe penalties for the violation of any such ordinance or section thereof, in a sum not less than ten dollars or more than one hundred dollars, as may be designated by such governing body; *provided*, that no person or persons shall be required to take out a license in order to sell any product off his farm; *provided, also*, that before selling any of the produce and articles, the person or persons intending to sell the same shall procure from the clerk of such borough an annual permit to sell such produce, and which permit the clerk of such borough is directed to issue upon the filing of an affidavit by the person or persons desiring to sell, such produce intended to be sold will be from off his own farm and of his own growing.

**An act to provide for the collection of the costs of grading, paving, curbing, and repairing sidewalks in boroughs incorporated under special charters.**

P. L. 1894, p. 184.

Cost of repairing  
sidewalks, how  
collected.

Approved May 1, 1894.

**533. SEC. 1.** That in any borough incorporated by special charter, whenever sidewalks have been or shall be graded, paved, curbed or repaired, and the cost thereof paid out of public moneys, under and by authority of the laws of the state and the ordinances of the borough, in addition to the means now provided for the collection of such cost from the owner of the lands in front of which such sidewalks have been graded, paved, curbed or repaired, it shall be lawful for the borough officer or officers under whose direction the work was performed, to certify the cost thereof to the collector of taxes for said borough, with a brief description of the lot or lots of land in front of which the work was done and the owner's name, if it can be ascertained; the collector shall file a copy of said certificate in the office of the clerk or register of the county in which such borough is situate, in the book of returns of unpaid taxes on real estate, and the amount of such cost, with expenses and lawful interest, shall be and remain a first and paramount lien on such lot or tract of land until paid or otherwise satisfied; the collector shall thereupon proceed to collect the same in the manner in which unpaid taxes on real estate are now or may be by law collectible in such borough.

**An act relating to the enforcement of ordinances in the boroughs of this state and providing for the collection of the penalties imposed for the violation of the same.**

P. L. 1894, p. 373.

In default of pay-  
ment of penalty  
for violation of  
any ordinance,  
defendant may  
be committed to  
jail.

Approved May 16, 1894.

**534. SEC. 1.** That on the trial of any person or persons for violating any ordinance passed by any borough in this state the mayor or police justice, justice of the peace or other judge or court having jurisdiction of the matter shall have the power and authority to provide in the judgment rendered by them or either of them that the defendant in default of the payment of the penalty imposed and costs shall be confined in the county jail for any period not exceeding ten days, in the discretion of the mayor, police justice, justice of the peace or other judge or court before which

suit is tried, and on default of the payment of the amount of the judgment rendered and costs, to issue a commitment directing the defendant to be confined in the jail of the county for the time designated in the judgment; which said commitment and all other writs in the cause may be served by the marshal or any constable.

**An act relating to the improvement of sidewalks in boroughs incorporated under special charters.**

Approved May 17, 1894. P. L. 1894, p. 447.

**535. SEC. 1.** That the council or other governing body of any borough incorporated under special charter may make and establish ordinances for grading, paving and curbing the sidewalks on the streets of such borough; *provided*, that no property-owner shall be required to grade, pave and curb more than two hundred consecutive feet of sidewalk in any one year.

Ordinances respecting sidewalks authorized.

**An act concerning the formation of borough governments.**

Approved February 18, 1895. P. L. 1895, p. 83.

**536. SEC. 1.** That no election for the formation of any borough government shall hereafter be ordered unless the petition for that purpose shall be signed by persons owning at least one-half in value of the taxable real estate in the limits of the proposed borough, as the same appears upon the assessor's duplicate of the township; *provided, also*, that in case said proposed borough shall embrace parts of more than one township no such election shall be ordered unless said petition be signed by persons owning at least one-half in value of such real estate in the limits of said proposed borough, in each of the townships.

Elections for formation of boroughs to be ordered only on petition of owners of one-half of real estate.

**An act to enable the inhabitants of this state, incorporated under any form of borough government, to annul their existing charters and to incorporate themselves under another form of borough government.**

Approved February 27, 1895. P. L. 1895, p. 132.

**537. SEC. 1.** That it shall and may be lawful for the citizens being legal voters, residing within any borough in this state, to annul and make void the existing charter or act of incorporation by which they are governed and to adopt and take upon themselves another form of borough government with other or greater powers and privileges, in accordance with the general statutes of the state of New Jersey relating to borough governments now enacted or hereafter to be enacted, as is hereinafter provided.

Legal voters may adopt another form of borough government.

**538. SEC. 2.** That a petition shall be prepared and signed by not less than fifty of the legal voters, being freeholders in such borough, directed to the mayor and council or the commissioners or other governing body of such borough, stating their desire to change the charter or form of government of such borough by annulling and dissolving the former charter or act of incorporation, and assuming and taking upon themselves and the other inhabitants of the said borough another form of borough government in accordance with the laws of the state of New Jersey relating to borough governments, specifying particularly the general statutes of the said state under which they desire to be re-incorporated, and further praying the said governing body to call for an election to be held by the legal voters of the said borough for the purpose of determining whether they will vote for such a change of government or not.

Proceedings to change form of government.

**539. SEC. 3.** That upon receiving such petition it shall be the duty of the governing body of the said borough to issue a public notice within ten days from its receipt, directed to the citizens and inhabitants of the said borough, setting forth the substance of the said petition and notifying the said inhabitants that on a day to be therein named, not less than thirty days after the date of such notice, there will be held an election to determine the question of a new incorporation as expressed in the said

Governing body shall give notice of election.

petition, which notice shall be printed and published in at least two public newspapers circulating in said borough, and also to be posted in not less than ten public places within the limits of said borough, which publication and notice shall be done by the clerk of the said borough, at the expense of the borough, and proof thereof shall be made and kept by the said clerk.

How the election shall be conducted and certified.

**540. SEC. 4.** That on the day so fixed for said election it shall be the duty of the officers of election, then in office for said borough or township, as the case may be, to hold said election in the usual form and under the laws relating to township and borough elections, wherein the legal voters residing within the said borough shall be allowed to vote on the said question of re-incorporation by depositing in the ballot-box ballots printed or written, with the words "for a new incorporation," or "against a new incorporation;" the polls shall open and close at the usual hours fixed by law for elections within this state; at the close of the polls for said election the judges and inspectors thereof shall open the ballot-box and count off and record the number of ballots cast for and against re-incorporation respectively; they shall then sign a certificate of the result and give one copy thereof to the clerk of the governing body of said borough and transmit another copy of said certificate to the clerk of the courts of the county wherein such borough is situated, which shall be duly filed and recorded in the said clerk's office.

Proceedings after the election.

**541. SEC. 5.** That if a majority of the votes so cast shall be against a new incorporation no further action shall be taken therein, and it shall not be lawful to hold any other election upon the question of a new incorporation for said borough within the period of two years from the said election first held; but if a majority of the votes polled at said election shall be for a new incorporation, then, from the time of filing said certificate in the office of the clerk of the county as aforesaid, the inhabitants of said borough shall be a body corporate in fact and in law under the name, style and title of "the mayor and council of the borough of ———," as such name may be assumed by the said new corporation, and by said name shall have perpetual succession, sue and be sued, prosecute and defend in all courts of law and equity in this state, have a common seal and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of said borough, and possess and use all the powers, rights, franchises, privileges and immunities over the territory and population embraced within the area of said borough limits, as are set forth and contained in the act of the legislature of New Jersey, entitled "An act for the formation of borough governments," approved April fifth, one thousand eight hundred and seventy-eight, and the several supplements thereto now enacted, or which may be hereafter enacted.

How mayor and council shall be elected.

**542. SEC. 6.** That if the result of the said election shall be in favor of a new incorporation, then within thirty days next after the filing of the certificate of the result of the election aforesaid in the office of the clerk of the county, and on the second Tuesday of April annually thereafter, the legal voters of said borough shall assemble at some convenient place in said borough, at the hour of two o'clock in the afternoon, and those so assembled may, by viva voce vote, proceed to elect a judge and two inspectors to conduct an election for the election of such officers of the borough as may be provided for by the act under which they may be incorporated, being residents and legal voters in said borough, who shall constitute the council of said borough; at the first election two councilmen shall be elected for one year, two for two years and two for three years, and two councilmen shall be elected annually thereafter to serve for three years; the mayor shall hold his office for one year; *provided*, that public notice of the time and place of the first election to be held under the above section shall be given by the clerk of the former borough by advertisement, set up at least ten days previous thereto in at least ten public places in said borough and published in a newspaper printed in said borough, if there be one, and if none, then in some newspaper circulating in said borough; the result of the said first election for mayor and councilmen shall be duly signed and certified by the officers conducting it, and one copy thereof be

Proviso.

given to the persons elected and another filed and recorded in the office of the clerk of the courts of the county.

**543. SEC. 7.** That all legal expenses incurred by the proceedings mentioned in this act shall be paid by the borough so changing its charter.

Expenses shall be paid by the borough.

**544. SEC. 8.** That the commissioners or governing body of the original borough, and all officers thereof, shall hold their offices and powers until the newly-elected mayor and council shall be qualified and take office; whereupon all the funds, property, rights and franchises of the former borough shall be transferred to and vested in the new borough and its legal officers, subject to all the debts, obligations and contracts existing at that time.

Officers of old corporations shall hold until new ones are qualified.

**545. SEC. 9.** That this act shall be deemed a public act and take effect immediately.

When act to take effect.

**An act to authorize grading, paving, curbing and repairing sidewalks in boroughs of this state incorporated under special charters, and to provide for the collection of the costs of the same.**

Approved March 11, 1895.

P. L. 1895, p. 265.

**546. SEC. 1.** That whenever in any of the boroughs of this state, incorporated under special charters, sidewalks have been or shall be graded, paved, curbed or repaired, it shall be lawful for the governing body, when authorized by a majority of the votes cast at an election held for the purpose as herein provided, to expend such sum of money as may be authorized by such vote, not exceeding five per centum of the assessed value of the real estate of such borough as shown upon the county records the year when such authority is given or the year next preceding, for the purpose of paying the cost and expenses of grading, paving, curbing and repairing the sidewalks within such borough, either in whole or in part, in such manner as they may deem advisable, and to issue bonds therefor in the corporate name of such borough in the manner hereinafter provided.

Cost of constructing or repairing sidewalks, how paid.

**547. SEC. 2.** That whenever in the judgment of the governing body of such borough it shall be deemed advisable to make any expenditure authorized by this act and to issue bonds therefor, the said governing body may order an election to determine whether bonds shall be issued to procure money for the payment of the cost and expenses of the proposed improvement, and shall designate the time and place for holding such election and appoint judges and inspectors thereof; which election may be at the time and place fixed by law for the election of municipal officers, or may be a special election called for the purpose; *provided*, that when a special election shall have been ordered under the provisions of this act, six calendar months must elapse before any order for another such special election shall be issued; the polls shall be open at least from three o'clock until eight o'clock in the afternoon; notice of said election and of the amount of bonds proposed to be issued, which amount shall not exceed five per centum of the assessed value of its real estate of such borough as shown upon the county records the year when such authority is given or the year next preceding, shall be given by advertisement, set up in at least ten public places in such borough for at least twenty days, and published for two successive weeks in three newspapers circulating therein; on the ballots issued at such election shall be printed or written "for the issue of bonds" or "against the issue of bonds," and the said election officers shall return to the governing body of such borough a true and correct statement in writing under their hands of the result of such election.

When election may be held.

Proviso.

Amount of bonds limited.

Notice of election shall be advertised.

**548. SEC. 3.** That if at such election a majority of all the ballots cast shall be "for the issue of bonds," it shall then be lawful for the governing body of such borough to proceed with the improvement of the sidewalks, the work to be done by contract, and to incur an expense therefor not exceeding the amount mentioned in the notice of such election, and to issue coupon bonds of such borough for the purpose of providing funds to pay the cost and expenses of such improvements, such bonds to be issued from time to time as occasion may require, but not to exceed in the aggre-

When it shall be lawful to proceed with the improvement.

Bonds to be issued as occasion may require, and shall not be sold for less than par.

gate the amount mentioned in the notice of such election; the bonds may be made payable at times to be therein specified, in a period of not more than ten years from issuing the same, and shall be so issued that a portion of the same shall be made payable in each year from the date of said bonds, and shall be disposed of in such manner as the governing body of such borough may determine, but in no case shall such bonds be issued or sold at less than the par value thereof.

Cost and expenses to be certified to collector of taxes.

Collector shall file certificate in county clerk's office.

Taxes shall be collected in yearly installments, unless otherwise ordered.

**549. SEC. 4.** That in addition to means already provided either by law or ordinance for the collection of such cost and expenses from the owner or owners of the lot or lands in front of which such sidewalks have been graded, paved, curbed or repaired, it shall be lawful for the governing body of such borough to certify the costs thereof to the collector of taxes for said borough, with a description of the lot or lots of land in front of which the work was done, and the owner's name if it can be ascertained; the collector shall file a copy of said certificate in the office of the clerk of the county in which said borough is situate in the book of returns of unpaid taxes on real estate, and the amount of such cost, with expenses and lawful interest, shall be and remain a paramount lien on such lot or tract of land for the term of ten years from the date of such improvement, unless sooner paid or otherwise satisfied; the collector shall thereupon proceed to collect the same in such yearly or other installment as the borough shall direct, providing the installments do not extend beyond a period of ten years, but said collector shall make such collections in the manner in which unpaid taxes on real estate are now or may be by law collectible in such borough, unless otherwise directed by said borough.

#### An act concerning boroughs.

P. L. 1895, p. 387.

Approved March 21, 1895.

Election may be held to determine whether incorporation shall be continued.

**550. SEC. 1.** That a majority of the legal voters residing in any borough of this state may at any time present to one of the judges of the court of common pleas of the county within which such borough may be located a petition in writing, signed by a majority of said legal voters, requesting the designation of a time and place for the holding of an election in said borough to determine whether or not the said borough incorporation shall be continued.

Proceedings upon petition for election.

**551. SEC. 2.** That upon presenting said petition to said judge, with an affidavit accompanying the same that the said petition is signed by a majority of said legal voters, he shall thereupon designate in writing a time, not less than six days nor more than fifteen days from the presenting of said petition, and a place within said borough, for holding therein of an election by the legal voters residing therein to determine whether the said borough incorporation shall be continued or set aside; that at the time of granting said order the said judge shall appoint one judge and two inspectors of said election, who shall discharge the same duties imposed upon similar officers in general state elections, who shall receive the sum of three dollars each for serving at said election, which shall be paid from the township funds in which said borough is located.

When polls shall be opened and closed.

**552. SEC. 3.** That the polls of said election shall open at seven o'clock in the forenoon and close at seven o'clock in the evening.

Notice of election shall be advertised and posted.

**553. SEC. 4.** That notice of said election shall, after signing of said order by said judge, be forthwith published in any newspaper circulating in said borough, which notice shall state the time, place and object of holding the same, and a similar notice shall be posted in five of the most public places in said borough, at least five days prior to said election, which notice shall be signed by the said judge of election and inspectors of election.

Majority vote shall be necessary.

**554. SEC. 5.** That if a majority of the votes cast in said election shall be in favor of a discontinuance of said borough incorporation, the said borough incorporation shall thereupon terminate, and the territory within the limits of said former borough shall become a part of the township

within which it may be located in all respects as before the incorporation of said borough.

**555. SEC. 6.** That all bonded indebtedness of the said borough existing at the time of said discontinuance of borough incorporation shall remain a lien on the property within the limits of the said former borough to the same extent as during the existence of said borough, and the interest due on the said bonded indebtedness, and the accruing bonded debt shall be assessed within the limits of said former borough by the assessor of the township within which the said former borough is located as the same shall become due and accrued, and the said assessments shall be collected by the township collector and applied to the payment of the said indebtedness.

Bonded indebtedness shall remain a lien on property within the borough.

**556. SEC. 7.** That all debts and unpaid taxes and assessments due and owing the said borough shall, after the discontinuance of said incorporation, be payable to the proper fiscal officer of said township, who shall apply the money collected thereon to the use of the owners of the taxable property within said former borough as hereinafter set forth, and in case of the non-payment of any taxes, assessments or other money due and owing the said former borough, such proceedings shall be taken for the collection of the same as in the case of taxes, assessments or debts due said township, such proceedings to be in the name of and by the inhabitants of the township within which said borough was located for the use of said former borough and the proceeds thereof shall be payable as hereinafter set forth.

Debts, unpaid taxes, &c., shall be payable to proper township officer.

**557. SEC. 8.** That suit for all causes of action existing against said borough at the time of the discontinuance of said borough incorporation, may be instituted in any court of this state having jurisdiction of the same against the inhabitants of the township within which said borough was located, and any judgment obtained thereon shall be satisfied by an assessment made upon the taxable property within said former borough.

Right of action against borough preserved.

**558. SEC. 9.** That the said township committee shall have power, after the discontinuance of said borough incorporation, to sell and dispose of, either at public or private sale, all real estate owned by said former borough, and to execute and deliver a proper deed therefor; all personal property owned by said former borough at the time of the discontinuance of said borough incorporation may be sold, either at public or private sale, by the said township committee, and the proceeds arising from the sale thereof shall be applied by the township collector on account of the taxes assessed on the taxable property within said former borough according to the respective assessments thereon, and all moneys accruing from said sales or from other assets of said former borough shall be applied by said collector in the same manner from year to year until the same is expended fully, as aforesaid.

Township committee may sell public property of borough.

Proceeds to be applied on account of taxes assessed.

**559. SEC. 10.** That it shall be lawful for the township committee of the township within which said borough was located to order paid all legal claims against said former borough, and the same shall be paid in the same manner as claims against townships are paid; and the money so paid shall be assessed on the taxable property within the limits of said former borough, and when collected shall be paid into the general fund of said township.

Township committee shall pay legal claims and assess the same on property within the borough.

**An act concerning assessments for benefits for street improvements in boroughs in this state, and providing for a new assessment or new assessments.**

Approved March 22, 1895.

P. L. 1895, p. 617.

**560. SEC. 1.** That in all cases where any assessments for benefits conferred by the improvement of any street or streets, or any part of any street in any borough in this state, has or have been or shall be reversed or set aside on removal by certiorari or other process, and such improvement shall have been actually made in the manner provided by the act under which such borough is or shall be incorporated, it shall be the duty of such board, body, commissioners or committee as is or shall be vested with power to make an original

Proceedings when assessments have been set aside after improvements have been made.

assessment for benefits for like improvements by the act under which such borough is or shall be incorporated, to make new assessment or assessments of the several amounts which each property adjoining the said street, streets or portion of street upon which such improvement has been made, has been benefited by such street improvement, and file such assessment or assessments with the clerk of such borough, whereupon the same shall become a lien upon the property or properties so assessed in the same manner and with like effect and enforceable in the same manner as is provided by the act under which such borough is or shall be incorporated, or any act appropriate thereto, in case of an original assessment for like improvements.

Repealer.

**561. SEC. 2.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

### Borough Commissions.

1. Who may form a borough commission.
2. Amended by section 26.
3. Special election, how conducted, corporate name, &c.
4. Amended by sections 16, 21 and 42.
5. Time and manner of holding elections.
6. Meetings of commissioners, treasurer's bond, &c.
7. Control of streets, sidewalks and roads.
8. Amended by sections 25 and 44.
9. Vacancy in office of commissioner, how filled.
10. Compensation not allowed to commissioners. Road taxes, how assessed.
11. Amended by section 40.
12. Provisions of act applicable to certain sidewalks.
13. Repealer.
14. General powers of borough commissioners.
15. Repealer.
16. Amended by sections 21 and 42.
17. Additional powers of borough commissioners.
18. President of borough commission to have powers of justice of the peace and may hold court.
19. Duties of president of borough commission.
20. Repealer.
21. Amended by section 42.
22. Amended by section 29.
23. Manner of conducting certain elections
24. Expenses of election, how defrayed.
25. Amended by section 44.
26. Chosen freeholder to call election to constitute borough.
27. Repealer.
28. Proceedings not invalidated by omission to publish corporate name.
29. Proceedings to abolish borough commission.
30. Duty of borough commissioners after dissolution of borough commission.
31. When judge of circuit court may order new election.
32. Costs of election, how paid.
33. Term of commissioners elected.
34. *De facto* commissioners may be enjoined.
35. Assessor and collector of taxes to be elected.
36. Duties and compensation of assessor.
37. Duties and compensation of collector.
38. Vacancies in office, how filled.
39. Repealer.
40. Expenses of election, how paid.
41. Repealer.
42. Election of commissioners, when held.
43. Certain borough commissions irregularly formed, validated.
44. Voters to designate on ballot amount raised for borough purposes.
45. Certain informalties not to invalidate formation of borough commissions.
46. President of board of borough commissioners to file result of election.
47. Borough commissions to be set off from townships.
48. Such commissions constitute separate election districts
49. Officers to be elected in such commissions.
50. Powers of the commissioners.
51. Debts and property of township to be equitably apportioned.
52. Proceedings for such apportionment
53. Amended by section 53.
54. Election may be held to decide upon setting off borough commission from township.
55. Election, how conducted and certified.
56. Form of ballots.
57. Repealer.
58. When the act shall have effect.
59. Repealer.
60. Borough commissions set off from townships to be designated as boroughs.
61. Regulation, construction and repair of sidewalks, how controlled.
62. Owner of abutting lands may be required to construct and maintain sidewalks.
63. Moneys collected from owners for repairs, &c., to sidewalks, how credited.

#### An act for the formation of borough commissions.(a)

P. L. 1882, p. 48.

Approved March 7, 1882.

Formation of borough commission when so decided by voters at special election.

1. That the inhabitants of any township or part of a township in this state embracing an area not to exceed two square miles, and containing a population not exceeding three thousand, may become a borough commission in fact and in law whenever at a special election, to be called for that purpose as hereinafter provided, it may be so decided by a majority of votes of the electors of said proposed borough who are qualified to vote at elections for state and township officers.

2. [Amended by Sec. 26, *post.*]

(a) This act is constitutional in its general application to all the townships of the state. *Matawan v. Horner*, 19 Vr. 441.