

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 That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.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)

F. 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.

3. That the said freeholder shall appoint, by writing under his hand, a clerk and two inspectors of said election, who shall be freeholders or taxpayers on personal property 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 shall contain the words "for borough commission" or "against borough commission," 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 borough commission 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 borough commission, in fact and in law, under the name of the borough commission of _____.

4. [Amended by Secs. 16, 21 and 42, *post.*]

5. That the first election of said commissioners shall be held at a public place in the borough, to be designated by the freeholder of the township in which said borough is situated; and subsequent elections shall be held at such place in said township as by resolution of the board of commissioners for the time being shall be appointed, of which subsequent elections such board shall give two weeks' notice by advertisements in the newspapers of said borough; that said election shall be by ballot, and shall be opened at two o'clock in the afternoon and closed at seven o'clock in the evening of the same day; that there shall be chosen by the electors then present a judge and clerk of election, who shall be sworn as officers of township elections are sworn, and shall conduct the same in the manner that township elections are conducted by ballot, which officers of election shall possess the same powers and be subject to the same duties and restrictions as the officers of township elections are subject to, but shall receive no pay for their services and that at the close of said polls the said judge and clerk of election shall canvass the votes cast and publicly declare who have been chosen, and shall make out, under their hands, and deliver to the commissioners so chosen, a certificate of their election, which certificate shall be recorded in the minutes of the proceedings of said board.

6. That the commissioners so chosen shall meet within two weeks after their election and choose from their number a president, secretary and treasurer; that meetings of the said board may be called by the president or by resolution of the board, or in the absence or disability of the president, then by the treasurer, upon two weeks' notice published in any such newspaper, which meetings so called may be publicly adjourned to another time and place without further advertisement; that the treasurer shall give his bond to said board, with satisfactory sureties, in such amount as they may require, for the faithful performance of his office, and shall render annually, and as often as required by the resolution of the board, an account of all moneys received and disbursed by him, and shall pay out no moneys except upon resolution of the board, upon bills countersigned by the president; that the secretary shall keep a minute of the proceedings of said board, and record the same in a book provided for that purpose.

7. That it shall and may be lawful for the said board of commissioners to have the general supervision, management and control of the public streets, sidewalks and roads of said borough; to provide for the lighting of the streets and the supplying water for extinguishing fires in said borough by the construction of cisterns or otherwise, and for this purpose may by resolution or ordinances make all needful rules and regulations for the promotion and advancement of the interests of said borough touching and concerning the matters above mentioned, and more particularly that they may, by such resolutions or ordinances, cause the streets and roads of said borough, or such parts thereof as they may deem

Appointment of clerk and inspectors of election.

Election, how conducted.

Statement of result to be filed in county clerk's office.

Corporate name.

Places of holding elections, by whom designated.

Notices to be given of holding elections.

Officers of election, how elected and their duties.

Meetings of the commissioners, how called and by whom.

Treasurer to give bond.

Control of streets, sidewalks and roads.

BOROUGH COMMISSIONS.

advisable, to be graded, graveled or otherwise to be improved and repaired, and to prevent and cause to be removed all obstructions thereon, so that they may be kept open to the width at which they were laid out by the surveyor of the highways, or by any deed, donation or dedication thereof by the original owner or owners thereof, and also that they may fix and determine the width, grade and construction of the sidewalks of the said borough, and if the same has not been previously paved, flagged or graveled and curbed in a good and substantial manner, and to the required width and grade, then to cause the same, or such part thereof as they may deem necessary, to be paved, flagged, graveled and curbed, or either of them, at the expense of the several owner or owners of the improved property of said borough adjoining said sidewalks; *provided*, the conditions as hereinbefore specified are not complied with within thirty days after notification to the said owner or owners by the said board of commissioners and to the satisfaction of said board; and in case any owner or owners shall neglect and refuse to comply with and carry out any such regulations or ordinances touching the sidewalks in front of and before their improved lots of land, then that said commissioners may cause the same to be done and carried out by their workmen, laborers or agents, keeping a particular account of the expenses attending the same to and with reference to the several owners of such improved lots respectively; and in default of payment of such expenses by any such owner or owners, then the said board of commissioners, by their above-mentioned title of office, may sue for and recover the same in any court of competent jurisdiction, which moneys when recovered shall be by them applied to carry out the purposes of this act; and the said commissioners shall have power to cause to be constructed, enlarged, repaired and extended any culverts, sewers, drains or ditches in or along any of said streets or roads, and therein or thereby to divert, receive and discharge the drainage of said streets and roads, with reference to the greatest public convenience and doing the least private injury possible.

Proviso.

8. [Amended by Secs. 25 and 44, *post.*]

Vacancies in office of commissioner, how filled.

9. That if any vacancy shall occur in the board of commissioners, said vacancy may be filled by the remaining members of the said board of commissioners until the next annual election, under the conditions as to qualification as specified in section four of this act.

No compensation allowed to commissioners for their services.

10. That no compensation shall be paid to any of said commissioners for their services; that they shall not have power to levy any tax or make any assessment upon the owners of real estate or other inhabitants of said borough, excepting for the purposes as hereinbefore specified in the act; that the taxes which shall hereafter be assessed, levied and collected upon and from the taxable inhabitants of said borough, and upon the real estate therein, for roads, or for the improvement or repairs of roads, by the officers of the township in which said borough is situate, shall not be applied to the roads without the boundaries of said borough, but that the assessor and collector of the said township shall hereafter assess and collect upon and from the taxable inhabitants of said borough, and on all lands liable to be taxed therein, the road tax which shall have been ordered to be raised at the previous annual township election, in the same manner as the same have been heretofore assessed, levied and collected, and it shall be the duty of the collector or collectors of said township to pay over the amount of the road tax by him or them received, which shall have been assessed and collected upon the taxable inhabitants of said borough and upon all lands liable to be taxed therein, to the treasurer of the said board of commissioners, to be expended and applied by them in carrying out the purposes of this act, and for this purpose the said assessor of said township shall, by some convenient mark in his duplicate, designate the road taxes of the taxable inhabitants of said borough; and in case of any dispute

Road taxes, how assessed.

respecting such designation, the same shall be determined by the commissioners of appeal in cases of taxation of said township. (a)

11. [Amended by Sec. 40, *post.*]

Supplement.

Approved March 22, 1883. P. L. 1883, p. 128.

12. SEC. 1. That the provisions of the act to which this is a supplement, relating to or regulating the grading and otherwise improving or repairing of sidewalks and the removing of obstructions therefrom, and the fixing and determining the width, grade and construction of the same, shall apply to all sidewalks in front of all unimproved lots within three hundred feet of any improved property; *provided*, that where a grade for a sidewalk has already been established, any change made therein by order of the commission shall be at the expense of the borough.

Provisions of act to apply to certain sidewalks.

Proviso.

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

Repealer.

Supplement.

Approved March 23, 1883. P. L. 1883, p. 167.

14. SEC. 1. That all borough commissions which have been organized or which shall be organized under the provisions of said act shall have power to ordain and enforce ordinances for the following purposes, in addition to the powers granted by said act:

General powers of borough commissions.

I. Providing for granting licenses to hawkers, peddlers and other vendors, and prohibiting all persons from carrying on the business of hawking, peddling and vending without such license.

II. To prevent injury to and destruction of trees on the public streets.

III. To prohibit any injury or destruction of street lamps or other public property.

IV. To prevent and provide for the abatement of all nuisances on the streets or sidewalks within the borough limits, and prohibit the accumulation of offensive matters on the same.

V. To prohibit the pasturing of cattle, sheep, goats, geese or other animals on the said streets or sidewalks.

VI. To provide for the enforcement of ordinances and prescribe penalties for violation of the same, which penalties shall consist of fines and costs of suit, to be sued for and recovered in district courts or courts for the trial of small causes.

15. 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.

Repealer.

Supplement.

Passed April 2, 1885. P. L. 1885, p. 197.

16. [Sec. 1, amending Sec. 4 of original act, is again amended by Secs. 21 and 42, *post.*]

Supplement.

Approved March 26, 1886. P. L. 1886, p. 137.

17. SEC. 1. That all borough commissions which have been organized or which shall be organized under the provisions of said act, shall have power to ordain and enforce ordinances for the following purposes, in addition to the powers granted by said act and the supplements thereto: for appointing policemen, regular or special, watchmen and other subordinate officers, and prescribing their powers, duties and compensation; for the more effectual suppression of vice and immorality; for preserving peace and good order; for restraining vagrants, mendicants and street beggars; for

Borough commissions empowered to ordain and enforce ordinances for additional purposes.

(a) Where, prior to the incorporation of part of a township under this act, overseers of highways have been assigned their several limits, and the money voted to be raised by taxation for roads has been appropriated to the respective road districts,

such appropriation cannot be changed by the subsequent incorporation of borough commissions. *Malawan v. Horner*, 19 Vr. 441.

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preventing, restraining or suppressing any riots, routs, disturbances, disorderly assemblages or breaches of the peace in any street, alley, house or place in said borough commission, and may make and impose fines and penalties against all persons who shall offend against the ordinances of said commission.

President to be
and have powers
of a justice of the
peace.
May hold court
and take cogni-
zance of offenses,
&c.

18. SEC. 2. That the president of any borough commission which has been organized or which shall be organized under the provisions of said act, shall be a justice of the peace ex-officio, and shall have all the powers and authority of a justice of the peace in the state of New Jersey; and the said president shall hold a court which will be a court of record, and take cognizance of all offenses against the ordinances of the commission of which he is president, and of all forfeitures, penalties, fines and imprisonments laid or to be laid by the ordinances of said borough commission; *provided, however,* that the said president shall not, by virtue of his office, be authorized to try any civil action except such as may arise under an ordinance for the recovery of a penalty, forfeiture or fine, or for an assessment for taxes or damages; and it shall be lawful for said president, upon complaint made on oath or affirmation of any offense committed against any of the ordinances of said borough commission, or against the laws of the state of New Jersey, to issue his warrant to any policeman of said borough commission to apprehend said offender or offenders and bring him, her or them before said president, and on conviction of said offense, to punish said offender or offenders by fine or imprisonment, or both, as the case may require, together with costs of conviction, which costs shall be the same as those allowed justices of the peace, and by his warrant, directed to any policeman of said borough commission, in case the offender be sentenced to imprisonment, to command that he, she or they be conveyed to the common jail of the county wherein said borough commission is situate, there to be confined until the term of imprisonment shall have expired and until the costs of conviction be paid, or if said offender be adjudged to pay a fine, then there to remain until said fine and costs of conviction be paid or to issue a warrant directed to any constable of the county wherein such borough commission is situate, commanding said officer to levy and make such fine and costs of the goods and chattels of such offender; *provided,* that any such offender convicted as aforesaid may appeal for the remission of any fine or costs to the borough commissioners, and the said commissioners may remit the whole or any part thereof upon such terms as they may deem best to prescribe and impose; and the said policeman is hereby authorized and required to execute the processes aforesaid, and the jailer of the county in which said borough commission is situate shall receive and safely keep all such offenders as shall be committed to the jail of said county by the president of said borough commission for the term of his, her or their imprisonment, as expressed in the warrant of commitment, and all the expenses of keeping such offenders in said jail shall be borne and paid by the county; *provided,* that all executions commanding the sale of the goods and chattels of any offender to make any fine, penalty or forfeiture, shall be directed and delivered to a constable of the county.

Duties of the
president of
commission.

19. SEC. 3. That it shall be the duty of the president of every borough commission to see that the laws of the state and the ordinances of the borough commission are faithfully executed in such borough commission; he shall maintain peace and good order in the borough commission of which he is president, and shall have the same power to suppress all riots and tumultuous or disorderly assemblages, 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 said borough commission, or to require the offenders to enter into recognizance to answer the charges, as the justices of the peace of this state now have.

Repealer.

20. 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.

Passed May 4, 1886. P. L. 1886, p. 336.

21. SEC. 1. [This section, amending Secs. 4 and 16, *ante*, is amended by Sec. 42, *post*.]

Supplement.

Approved March 23, 1887. P. L. 1887, p. 45.

22. SEC. 1. [Amended by Sec. 29, *post*.]

23. SEC. 2. That the said chosen freeholder shall appoint, by writing under his hand, a clerk and two inspectors of said election, who shall be legal voters within said borough, and who shall hold and conduct the election aforesaid at the time and place specified in said notice, and the said election shall be conducted, and the result thereof certified to the clerk of the said county and filed in the clerk's office of said county, in the same manner as provided for in said act to which this is a supplement, in voting for or against the formation of such borough commission, and the voters at such election shall vote by ballot, and the ballot shall contain the words, "to continue borough commission," or "to set aside borough commission," and if a majority of the votes be cast "to set aside borough commission," then said borough commission shall be set aside and of none effect.

Manner of conducting certain elections.

24. SEC. 3. That the expense of advertising and holding said election shall be defrayed and borne by the persons requesting the said chosen freeholder to call said election as mentioned in section one of this supplement; the freeholder calling said election shall, for his services, be entitled to the sum of two dollars, and the clerk and inspectors holding said election shall be entitled to receive the same fees as are allowed for like services at state elections.

Expenses of advertising and holding election, by whom borne.

Amendatory act.

Approved April 4, 1887. P. L. 1887, p. 134.

25. SEC. 1. [This section, amending Sec. 8, *ante*, is amended by Sec. 44, *post*.]

Amendatory act.

Approved March 23, 1888. P. L. 1888, p. 211.

26. SEC. 1. That section two of an act entitled "An act for the formation of borough commissions," approved March seventh, eighteen hundred and eighty-two, be amended to read as follows:

[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-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, (a) 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 the 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.] [See Sec. 43, *post*.]

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

Notice of election.

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

Repealer.

(a) Under section 2 of original act, requiring petition to be signed by persons owning at least one-tenth in value of the taxable real estate, &c., it was held that the provision requires

that the petitioners be such owners at the time of presenting the petition. *Yard v. Ocean Beach*, 19 Vr. 375.

Supplement.

Approved March 26, 1888.

P. L. 1888, p. 254.

Proceedings not
invalidated by
omission to pub-
lish corporate
name.

28. SEC. 1. That whenever any borough commission has been formed under the provisions of the act to which this is a supplement, the proceedings for the formation of such borough commission shall not be invalidated because of the omission to publish the corporate name of such borough commission in the notice required to be published in a newspaper by said act, but that any such borough commission so formed shall be held to be a valid and lawful municipal corporation within the meaning of said act, notwithstanding such omission, providing the act and the supplements thereto to which this is a supplement shall have been in all other respects complied with.

A supplement to an act entitled "Supplement to an act entitled 'An act for the formation of borough commissions,' approved March seventh, anno domini one thousand eight hundred and eighty-two," which supplement was approved March twenty-third, anno domini one thousand eight hundred and eighty-seven.

P. L. 1888, p. 393.

Section amended.

Approved April 6, 1888.

29. SEC. 1. That section one of the act to which this is a supplement [see Sec. 22, *ante*] be and the same is hereby amended so as to read as follows:

When deemed
expedient to
abolish commis-
sion, chosen free-
holder, upon
request, to call
election to vote
thereon.

[That whenever it shall be deemed expedient to discontinue or abolish any borough commission formed under the act entitled "An act for the formation of borough commissions," approved March seventh, anno domini one thousand eight hundred and eighty-two, it shall be the duty of the chosen freeholder, or, if more than one, then one of the chosen freeholders of the township in which said borough commission is located, upon request to him in writing, signed by not less than one-third in number of the taxpayers of the said borough commission (not including such persons as pay a poll tax only), to call an election to decide whether said borough commission shall be continued or set aside, by notice in writing under his hand, setting forth the time and place of such proposed election, and stating the object of the said election to be to vote to continue said borough commission, or to set aside said borough commission, which notice shall be set up at least ten days previous to the said proposed election, in five of the most public places within the limits of said borough, and published at least twice in a newspaper printed and published within said borough limits, if any, or, if none so published, then in a newspaper printed and published in the county wherein said borough is situated; and the polls shall be opened at the hour of two o'clock in the afternoon and closed at seven o'clock in the evening of the same day.]

When dissolved,
existing board to
continue in office
to receive money
and pay debts.

30. SEC. 2. That upon the dissolution as aforesaid of any borough commission, the existing board of borough commissioners shall continue in office for the purpose of receiving all moneys due such borough commission, and of paying all debts and obligations outstanding against the same at the time of its dissolution; and any surplus remaining in their hands after the payment of all such debts and obligations shall be by them turned over to the township committee, to be by said committee expended within the limits of said borough commission as it before existed, for such purposes only as were before lawful to said borough commission.

Supplement.

Approved April 19, 1888.

P. L. 1888, p. 315.

Judge of circuit
may order new
election, when.

31. SEC. 1. That if doubt exists that the provisions of this act and the several amendments and supplements thereto have not been complied with in the manner of advertising or holding the annual elections, or the qualifications of the commissioners alleged to have been elected, application may be made to the judge of the circuit court of the district wherein said

borough commission may be situate, upon the petition of eight freeholders of said borough, either in term time or vacation, whereupon the said judge shall fix an early day for hearing such application, and if proof be made at such hearing that the requirements of this act have not been complied with, then the judge of the circuit court may make void the certificates of the commissioners so elected and order a new election for commissioners in said borough, according to the manner of holding elections under this act, giving not less than eight nor more than fourteen days' notice of such special election.

32. SEC. 2. That if the judgment of the court shall find that the requirements of the act relative to the election of commissioners have been complied with, and shall confirm such election, then the costs of such hearing shall be paid by the petitioners; but if the court shall find that the commissioners so alleged to have been elected are not a de jure board, and shall order a new election, then the costs shall be paid by the borough.

Costs of election,
how paid.

33. SEC. 3. That if the court shall order a special election, the commissioners so elected, under the provisions of this act, shall serve until the time for holding the next annual election, on the first Tuesday of April thereafter.

Term of commis-
sioners elected.

34. SEC. 4. That when such petition shall be presented to the judge of the circuit court, he shall enjoin the de facto commissioners from contracting any obligations beyond the ordinary current expenses of the borough.

De facto commis-
sioners may be
enjoined.

Supplement.

Passed April 7, 1890. P. L. 1890, p. 238.

35. SEC. 1. That the legal voters of every borough commission incorporated under the act to which this act is a supplement, shall at the next and each succeeding borough election vote for, and by a plurality of the votes cast elect, an assessor and collector of taxes, who shall hold office for one year.

Assessor and
collector of taxes
to be elected.

36. SEC. 2. That the assessor so elected 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 proportions 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 borough for borough tax, according to law and the requirements of the ordinances of board of commissioners of such borough, and on or before the first Monday in August in each year, shall deliver the duplicate of such assessment to the collector of such borough.

Duties and com-
pensation of
assessor.

37. SEC. 3. That the collector so elected shall give bonds satisfactory to the said board of commissioners, and shall possess the powers and perform the duties, and be subject to the same penalties, and be paid at the same rate and in the same proportions as the collectors of the several townships in this state, and shall receive all moneys assessed in said borough for borough tax, and pay the same to the treasurer of such borough, taking his receipt therefor, 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.

Duties and com-
pensation of
collector.

38. SEC. 4. That in case of a vacancy in the office of assessor or collector 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 of commissioners to appoint others in their stead to fill such offices for the unexpired term thereof.

Vacancies, how
filled.

39. SEC. 5. 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.

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Amendatory act.

P. L. 1890, p. 308.

Approved May 12, 1890.

Expenses of advertising, by whom paid.
Fees of freeholder and officers of election.

40. SEC. 1. That section eleven of the act to which this is amendatory be and the same is hereby amended so as to read as follows :

[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 borough commission; the freeholder calling said election shall, for his services, be entitled to the sum of two dollars; and the judge, inspectors and clerk holding such election, or any subsequent election, shall be entitled to receive the same fees as are allowed for like duties at state elections; the costs of all subsequent elections to be paid by said board.]

Repealer.

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

Amendatory act.

P. L. 1891, p. 297.

Approved April 2, 1891.

Election for commissioners, when to be held.

Proviso.

42. SEC. 1. That section four of the act to which it is amendatory [see Secs. 4, 16 and 21, *ante*] be and the same is hereby amended so as to read as follows :

[That the legal voters of the said borough shall make and hold an election in said borough, on the first Tuesday of April hereafter, at which election shall be chosen, by a plurality of the votes cast, seven commissioners, for the term of three years; *provided, however*, that at the first annual borough election in such borough commissions, after the passage of this act, the ticket voted shall designate the name of two members of the board of commissioners of the said borough commission for the term of one year, two members for the term of two years, and three members for the term of three years, and at each succeeding election the members of said board of commissioners shall be elected for the term of three years, who shall be freeholders and taxpayers on personal property, but a majority of whom shall be freeholders of the said borough, who shall be denominated "the board of commissioners of the borough commission of _____," and by that name they and their successors in office may sue and be sued, make contracts and agreements, make regulations and ordinances, and impose penalties, not exceeding fifty dollars in amount, for the purpose of carrying out and effecting the object and purposes of this act; *provided*, that nothing in this section shall be so construed as to prevent the election of two of the aforesaid commissioners who may reside beyond the limits of said borough; *and it is further provided*, that nothing in this section shall be so construed as to prevent the first election for said seven borough commissioners being held at any time within three months after the incorporation of any borough under this act.]

Proviso.

Proviso.

A supplement to an act entitled "An act amending 'An act for the formation of borough commissions,'" approved March seventh, one thousand eight hundred and eighty-two, approved March twenty-third, one thousand eight hundred and eighty-eight.

P. L. 1892, p. 383.

Approved April 4, 1892.

Preamble.

WHEREAS, Doubts have arisen in the formation of some of the borough commission governments, under and by virtue of the act creating borough commissions, and the several supplements thereto, as to whether the petition presented to the chosen freeholder of the townships in which said borough commissions were situate, did contain the signatures of the persons owning at least one-half in value of the taxable real estate within the limits of said proposed borough commissions as the same appears upon the assessor's duplicate of the townships, to call a special election, for the purpose of determining whether said proposed borough commission shall be formed or not; therefore,

43. SEC. 1. That every borough commission established under and by virtue of the act to which this is a supplement and the several supplements thereto, shall be deemed and is hereby constituted a true and lawful borough commission, with all the powers conferred by said act, whether said petition as aforesaid presented to the chosen freeholders of said townships contained the requisite signatures of property-owners or not; *provided*, that at the election held for the purpose of determining said question as to the constitution of said borough commission a majority of the legal voters of said territory voting at said election have so voted, and all the other proceedings are regular and in due form as provided by said statute and the several supplements thereto. [See Sec. 26, *ante*.]

Certain borough commissions irregularly formed, validated.

Proviso.

Amendatory act.

Approved May 16, 1894.

P. L. 1894, p. 390.

44. SEC. 1. That section eight of the act entitled "An act for the formation of borough commissions," approved March seventh, one thousand eight hundred and eighty-two [see Secs. 8 and 25, *ante*], be and the same is hereby amended to read as follows :

[That the legal voters of said borough at each election for commissioners under this act shall by vote and upon the same ballot used in voting for said commissioners, designate an amount of money to be raised for borough purposes, not to exceed two thousand dollars in any one year, which sum so designated being certified on the returns of said election 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 said commissioners, signed by the president and attested by the secretary of said board, and if any township collector shall, at the expiration of his term of office, 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 and collectors shall receive the same fees for assessing and collecting said borough tax as they may be entitled to receive for assessing and collecting township tax; if any person shall think himself or herself aggrieved by any assessment or taxation made or levied under this act, he shall have the same remedy by appeal or certiorari as in the case of township taxes.]

Voters shall designate on ballot amount to be raised for borough purposes.

Proviso.

Township collectors shall be held responsible and receive fees.

An act to validate and confirm proceedings for the formation of borough commissions, had and taken under the provisions of an act entitled "An act for the formation of borough commissions," approved March seventh, one thousand eight hundred and eighty-two.

Approved March 22, 1895.

P. L. 1895, p. 627.

45. SEC. 1. That no proceedings had or taken for the formation of a borough commission, under the provisions of an act entitled "An act for the formation of borough commissions," approved March seventh, one thousand eight hundred and eighty-two, and the acts amendatory thereof or supplemental thereto, shall be taken or held to be invalid or inoperative because the clerk and two inspectors appointed by the freeholder of any township to conduct an election for the purpose of ascertaining whether a majority of the legal voters of said proposed borough commission are for or against the formation of a borough commission, shall have failed or neglected to file with the clerk of the county wherein said borough commission is situated a certificate setting forth the result of said election, and the number of votes cast for or against the formation of said borough commission, as in section three of said act is directed; *provided, however*, that this act shall only apply to borough commissions which have been in

No proceedings shall be invalidated because certain formalities have not been complied with.

Proviso.

BOROUGH COMMISSIONS.

existence, exercising all the functions as such for a period of over nine years from the time the election was held wherein a majority of the voters of said proposed borough commission voted in favor thereof.

President of board of commissioners may make and file result of election.

46. SEC. 2. That it shall be lawful for the president of said board of borough commissioners to file with the clerk of the county in which said borough commission is situated a certificate embracing the results of said election under which said borough commission was formed, and all other matters which said original certificate should have contained, which said certificate shall be sworn to by the president of said borough commission and attested by the secretary thereof, and when so filed shall for all the intents and purposes of said act be treated as and take the place of the certificate which should have been filed immediately after the election authorizing the formation of said borough commissions.

An act to set off borough commissions from the townships in which they are located and providing for their government.

P. L. 1894, p. 198.

Approved May 2, 1894.

Borough commissions shall be set off.

47. SEC. 1. That all those portions of the townships of this state containing a borough commission, comprised within the limits of such borough commissions, shall be and hereby are set off from said townships and erected into separate and distinct municipalities.

Constituted separate election districts.

48. SEC. 2. That such borough commissions so set off shall be and are hereby constituted separate election districts, and the persons qualified to vote shall elect, at the times fixed for the borough elections, the election officers required by the statutes regulating elections.

Officers to be elected.

49. SEC. 3. That at the time fixed for the said borough elections there shall be elected by ballot, in addition to the officers now or hereafter required to be elected in the said borough commission, an assessor, a collector, one chosen freeholder, one justice of the peace, three commissioners of appeal, one overseer of the poor, one poundkeeper and one constable, and the voters shall also, upon the same ballot, vote for the amount of money to be raised for the support of the poor, for road and street purposes, the amount of dog tax and all other money necessary for borough purposes; *provided however*, that the amount of money to be so raised shall not exceed the limits now or hereafter imposed by law on borough commissions, and the officers so as aforesaid elected shall qualify in the same manner, be under and subject to the same duties, obligations and penalties, have and perform the same powers and authority and receive the same fees and compensation as are imposed upon and given to like officers in the several townships in this state.

Shall designate moneys to be raised, &c.

Proviso.

50. SEC. 4. That the board of commissioners in any such borough commission shall, in addition to the powers, duties and penalties now or hereafter imposed by law, enjoy the same privileges, have the same power and authority, perform the same duties and be subject to the same penalties and obligations which now or hereafter may be vested in or imposed upon the members of the township committees of the several townships in this state.

Powers of commissioners.

51. SEC. 5. That such borough commission so set off as aforesaid shall be subject to its just and equitable proportion of all debts and obligations to which the inhabitants of the township where it is located are subject, and be entitled to its just and equitable proportion of the money and other property belonging to the inhabitants of said township, which said debts and liabilities and also said moneys and property shall be divided between such borough commission and the said township in proportion to the taxable property and ratables as taxed by the assessor of said township at the last assessment made before the election ordered to determine whether said borough commission shall be separate from said township within the respective limits of said township and borough commission, and any money or property to which the said borough commissions may be so entitled shall be applied by the borough commissioners of said borough for the use therein.

Commission shall be liable for just proportion of debt, and entitled to equitable share of money, &c.

52. SEC. 6. That the three members of the township committee of the township in which such borough commission shall be located, and a committee of three of the members of the board of commissioners in such borough commission, appointed for that purpose by the president of said board, shall meet at such time and place as shall be designated by the said board of commissioners of such borough commission; thirty days' notice in writing of which meeting, signed by such president, shall be served on the clerk of such township personally, or by leaving it at his residence or place of abode, and shall at the time and place so designated, or so soon thereafter as may be, proceed to allot and divide between the township and such borough commission the assets and liabilities of said township in the manner prescribed in the preceding section, and such borough commission and township shall be liable to pay their respective proportion of the debts due by the said township at the time that the allotment and division aforesaid are made, and the said committees so meeting as aforesaid, or a majority of each of them, shall make, under their hands and seals, a full, true and complete report of their proceedings and file the same in the office of the clerk of the county in which such township may be situate; which said report, or a certified copy thereof, shall be plenary evidence of the allotment and division aforesaid; and in case any of the members of the said committees shall neglect or refuse to meet as aforesaid, those who do meet may proceed to make such allotment and division, and the decision and report of a majority of each committee present shall be final and conclusive; *provided*, that it shall be lawful for said joint committee to adjourn from time to time, as a majority shall determine.

Committee to allot and divide property, &c.

Shall make report of proceedings.

Members of committee present may proceed.

Proviso.

53. SEC. 7. [Amended by Sec. 58, *post.*]

54. SEC. 8. That upon application by a petition signed by ten or more residents and freeholders of any borough commission of this state, the justice of the supreme court holding court in and for the county within which such borough commission is situate shall order an election to be held to determine whether said borough commission shall be separated and set off from the township within which it is located; that the order for such election shall designate the place or places in said borough commission where such election is to be held and the time for holding the same, which shall be within one month from the date of said order; that the applicants for said order shall cause notice of the time and place of such intended application to be given by publishing such notice in two newspapers published and circulated in the county in which said borough commission is situate at least one week next before said application is made; that the oaths or affirmations of said applicants attached to said petition that they are residents and freeholders of said borough commission shall be prima facie evidence of that fact; that a copy of said order shall be published once a week for two weeks prior to such election in two newspapers published in the county within which said township is located, and such other notice of said election given as said order may direct; that all such elections shall be conducted in the same manner and under the same regulations as are now or may hereafter be prescribed for holding elections in the borough commissions of this state.

Court shall order election.

Notice of application shall be published.

Proceedings.

55. SEC. 9. That it shall be the duty of the election officers to conduct the election, to canvass all the votes cast, to declare the result and to certify under their hands the result of such election to the clerk of the county in which such election is held, which certificate shall contain a recital of the order under which the election was held.

Election officers shall conduct election and certify result.

56. SEC. 10. That all persons voting at the election so ordered who are in favor of the separation of the borough commission from the township shall have written or printed, or partly written or printed, on the ballots "for separation," and all who are against such separation shall have written or printed, or partly written or printed, on the ballots "against separation;" if a majority of the votes cast at said election have on them "for separation," then it shall be taken as determined that the borough commission for and on account of which the application for the order

Form of ballots.

BOROUGH COMMISSIONS.

for the election was made shall be separated from the township in which it is located.

Repealer.

57. SEC. 11. That all acts and parts of acts, 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.

P. L. 1894, p. 392.

Supplement.

Approved May 16, 1894.

58. SEC. 1. That section seven of an act entitled "An act to set off borough commissions from the townships in which they are located, and providing for their government," approved May second, one thousand eight hundred and ninety-four [see Sec. 53, *ante*], be and the same is hereby amended so as to read as follows:

When this act shall have effect.

[That this act shall not apply to any borough commission until it has been determined by a majority of the legal voters of said borough commission at an election held under the order mentioned in the next section of this act that said borough commission shall separate from said township.]

Repealer.

59. SEC. 2. That all acts or parts of acts inconsistent herewith be and the same are hereby repealed.

P. L. 1895, p. 194.

Amendatory act.

Approved March 6, 1895.

Borough commission shall hereafter be designated as a borough.

60. SEC. 1. That whenever a borough commission has heretofore or shall hereafter become separated from the township in which it is located, under the provisions of an act entitled "An act to set off borough commissions from the townships in which they are located, and providing for their government," approved May second, one thousand eight hundred and ninety-four, the said borough commission so separated shall hereafter be designated as a borough instead of borough commission.

An act to authorize borough commissions to order and regulate the construction of sidewalks, and to provide for the payment of the expenses of the same.

P. L. 1895, p. 107.

Approved February 25, 1895.

Governing body shall determine construction and repair of sidewalks and material for same.

61. SEC. 1. That the incorporated borough commissions of this state shall have power, through their several 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 borough commissions shall be constructed, repaired and maintained from materials out of which the same shall be constructed; 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 materials that may be allowed by general ordinance of such borough.

Proviso.

May require owner or occupant of land to construct and maintain sidewalks.

62. SEC. 2. That any such borough commission 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 commission it shall hereafter become the duty of any owner of abutting lands, under the ordinance of a borough commission, to construct, alter or repair any sidewalk or section thereof, the authorities of such borough commission having charge of the street affairs of the borough commission may cause a notice in writing to be served upon the owner or occupant of said lands, requiring the specified 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 commission, 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 commission, 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

Notice shall be advertised in a newspaper.

borough commission, or in some newspaper printed in the township wherein said borough commission is situate; in case the owner or occupant of said lands shall not comply with the requirements of such notice, it shall be lawful for the street department of the borough commission to cause the required work to be done and paid for out of the moneys of the borough commission 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 commission; upon filing said certificate with the collector of taxes of said borough commission 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 commission to place the assessments made against any property improved in the manner specified in this act in the annual tax bill 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 borough commissions; in addition thereto the borough commission 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.

Cost of work shall be certified to tax collector.

Assessments may be collected same as other taxes.

63. SEC. 3. That all moneys recovered or paid to the borough commission under the provisions of the last preceding section shall be credited to the account out of which the cost of the work was paid.

Moneys recovered shall be credited to cost of work.

Bottlers, &c.

1. Amended by section 15.
2. When marked or stamped bottles, &c., may be used.
3. Amended by section 13.
4. What deemed *prima facie* proof of unlawful use.
5. Owner upon belief may make complaint of unlawful use before justice of the peace.
6. Upon complaint, search warrant may be issued.
7. Amended by section 14.
8. When justice shall deliver bottles, &c., to complainant.
9. Trial by jury may be demanded.
10. Appeal to court of general quarter sessions of the peace.
11. Proceedings, how conducted.
12. Repealer.
13. Penalty for unlawful use, &c., of bottles and boxes.
14. Proceedings after arrest of person charged with violation of act.
15. Manufacturer or dealer using bottles or boxes may file and publish descriptions thereof.
16. What the complaint shall particularly set forth.

17. Essentials of affidavit and conviction as to particular act committed.
18. By whom complaint may be made.
19. What deemed sufficient pleadings.
20. Repealer.
21. Descriptions of names, marks or devices on bottles or boxes may be filed.
22. Bottles or boxes marked according to act not to be used by persons not owners except on consent, &c.
23. Penalty for unlawfully using, breaking, &c., marked bottles or boxes.
24. Violations of act, how proved *prima facie*.
25. Execution to issue for penalty and costs.
26. Penalties to be used for the poor.
27. What violations deemed misdemeanors.
28. When search warrants shall be issued.
29. What descriptions heretofore filed deemed sufficient.
30. Repealer.

An act for the better protection of manufacturers and bottlers of and dealers in mineral waters, beer, ale, porter and other beverages. (a)

Approved March 11, 1881.

P. L. 1881, p. 95.

1. [Amended by Sec. 15, *post.*]
2. That it shall be unlawful for any person or persons hereafter, without the written permission of the owner or owners thereof, to use, sell, dispose of, buy or traffic in, or to willfully mar or erase the name or names, mark or marks thereon, or to break, destroy or otherwise injure any such box or boxes, bottle or bottles so marked or stamped, a description of which shall have been so filed and published as aforesaid, or to fill the same with mineral water, beer, ale, porter or any other beverage whatsoever for the purpose of sale or traffic.
3. [Amended by Sec. 13, *post.*]

When marked or stamped bottles, &c., may be used.

(a) See *Bowden v. Overseer of Randolph*, 12 Vr. 462.