may be registered and made payable to the order of the purchaser, and shall thus be registered as provided by said board, and issued without coupons, and be transferable only in person, or by power of attorney, on the books to be provided by said board for that purpose; and all bonds issued under this act shall be numbered, and a register of the number, denomination, date of issuing and name of person to whom issued, if registered, and time of payment shall be made by the collector in a book to be provided by said board for that purpose; which bonds may be sold at public or private sale for the best price which can be obtained for the same, but shall not be for less than the par value, and all the real estate and property within the county shall be liable for the payment of the principal and interest that may become due on the bonds to be issued by virtue of this act, but nothing in this act contained shall be held to permit any board to issue bonds the legality of which is now questioned or contested in any court of this state or of the United States, nor to renew or re-issue bonds held by any such court not to have been legally issued.

Payment to be provided by taxation.

203. SEC. 2. That the board of chosen freeholders of any such county shall have power and authority to provide by taxation for the payment of said bonds and the interest thereon, and shall yearly, and every year until the said bonds shall be redeemed and paid off, order and cause to be assessed and collected by tax, at the same time and in the same manner that other taxes in any such county are assessed and collected, a sum of money sufficient to pay the interest on the said bonds as the same shall become due and payable, and to pay and discharge the principal at the several times it shall become due and payable.

Cities.

I. CLASSIFICATION OF CITIES.

1. Classification of cities for purposes of municipal legislation.
2. Classes, how distinguished.
3. Subsequent laws may refer to such classes.
4. When new census shall affect cities as to classification.
5. Amended by section 6.
6. Application of laws as cities pass from one class to another.

II. CITIES OF THE FIRST CLASS.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

7. Mode of paying salaries or wages of officers or employes.
8. Repealer.
9. Governing body may fix salary of mayor.
10. Appointment of mayors' clerks authorized.
11. Repealer.
12. Additional salary allowed to city comptroller.
13. Such additional salary to be fixed by common council.
14. City comptroller may appoint and remove his clerks.
15. Repealer.
16. Sinking fund commissioners, appointment and term of.
17. Repealer.
18. Mayor may fill vacancy in office of alderman.
19. Repealer.
20. Alderman required to serve without compensation.
21. Repealer.
21*a*. Commissioners to be appointed to assess damages and benefits for local improvements.
21*b*. Manner of appointment, term and salary of commissioners.
21*c*. Duty of commissioners.
21*d*. Repealer.
22. Compensation of city collector.
23. Board of finance may borrow money to pay such compensation.
24. Repealer.
25. Mayor's term of office.
26. Repealer.
27. Law department, how composed.
28. Duties of law officers prescribed.
29. Further duties of law officers.
30. Present law offices vacated.
31. Vacancies to be filled for unexpired term.
32. Salaries of law officers.
33. Repealer.
34. City clerk may designate clerk to serve as acting clerk during his absence or disability.
35. Acting clerk to perform all duties of clerk.
36. Mayor may fill vacancies in office for unexpired term in certain cases.
37. Mayor may fill vacancy in board of aldermen or common council until next election.
38. Repealer.

2. BOARD OF STREET AND WATER COMMISSIONERS.

39. Mayor to appoint board of street and water commissioners. Term of office. Vacancy, how filled. How qualified. Salary, powers, meetings, &c.
40. Such board substituted for and to have authority of prior officers respecting streets, sewers, drains, water-supply, &c.
41. Amended by sections 72 and 95.
42. Grade of streets, &c., may be made, altered, &c., by board. Cost, how paid. Assessments for benefits.
43. Repairs to streets may be paid for out of license moneys.
44. Amended by section 76.
45. In making contracts the contractor shall give bond.
46. Board to certify to proper authority the cost of any public improvement.
47. Board to carry out contracts heretofore made.
48. Board to have exclusive authority over streets, &c.
49. Board to have entire control of public lighting of streets, &c.
50. Board may pass ordinances on certain subjects.
51. What powers transferred to such board.
52. What laws shall apply to such board.
53. Mayor may remove from office member of such board for cause.

54. Board to make estimate of necessary expenses for the year, and certify same to financial authorities.
55. Board to be credited with amount appropriated to it in tax budget.
56. Appropriations to be under control of such board.
57. Board may borrow money and issue obligations therefor.
58. Board to keep books of account, and make yearly reports.
59. Board to designate newspapers for publication of minutes.
60. When acts of board shall have concurrence of other municipal authorities.
61. Only one such board to exist in any city.
62. One unconstitutional section not to affect any other.
63. When special term of supreme court shall be held to determine questions of title to office.
64. Duties of chief justice as to such special term. Proceedings.
65. Superseded by section 74.
66. Board may make contracts for lighting streets, &c.
67. Repealer.
68. Issue of temporary loan certificates or bonds for the opening of streets authorized in certain cases.
69. Assessments for opening streets, how made and collected &c.
70. Bonds issued for what term and how paid.
71. Repealer.
72. Amended by section 95.
73. Repealer.
74. Committees of investigation appointed by boards of street and water commissioners. Powers of.
75. Repealer.
76. One-half of license fees may be set aside for street repairs.
77. Act applies to moneys received during current year of granting licenses.
78. Amended by section 89.
79. Repealer.
80. Terms of members of board terminated.
81. Mayor to appoint new boards.
82. Authority and powers of new boards.
83. Terms of members of new boards.
84. What ballots to contain.
85. New boards to organize immediately.
86. Mayor may remove for cause.
87. Vacancies to be filled for unexpired term.
88. Repealer.
89. Board may improve main thoroughfare, &c.
90. Board may construct sewers and drains.
91. Proposals may be received for part or whole of such work.
92. Proceedings for making assessments for benefits.
93. Proceedings in case of protest against the construction of sewer.
94. How act to be construed.
95. Board may repave streets, &c.
96. Assessments heretofore made ratified and confirmed.
97. Repealer.

3. STREETS AND SEWERS.

98. Debts incurred for necessary repairs to sewers may be paid though in excess of appropriation.
99. Repealer.
100. Main sewers may be constructed in certain districts.
101. Application of landowners for such construction.
102. Costs and expenses thereof, how assessed.
103. Residue of costs over benefits to be paid by city. Issue of bonds.
104. Proceedings to acquire property other than public highway.
105. Board may construct sewers and provide for disposal of sewage and drainage.
106. Board may purchase or condemn private land.
107. Cost of land to be deemed part of the cost of the work.
108. Temporary improvement certificates may be issued.
109. Assessments for benefits, how made, &c.
110. Bonds may be issued for redemption of temporary improvement certificates.
111. Principal and interest of bonds, how paid.
112. Paving or repaving of streets, how paid for.
113. Assessments for benefits to be payable in installments.
114. Excess of cost over special benefits to be charged to city capital fund account.
115. Proceedings under this act to make special reference to it.
116. Repealer.
117. Further powers as to streets and sewers.
118. Specifications for work thereon to be made, contract therefor to be awarded, &c.
119. Map and probable amounts of special assessments to be prepared. Hearing of objections.
120. Bonds or certificates for such work may be issued.
121. Proceedings in making assessments for benefits.
122. When assessments shall be payable.
123. Collection of assessments, how enforced.
124. Proceedings necessary in order to secure the advantages of act authorizing above improvements.
125. Still further powers as to opening of streets, &c.
126. Authority to build viaducts, abutments, &c.
127. Proceedings for making of contract for street improvements.
128. Preliminary map and report of improvement to be made. Proceedings thereon.
129. Bonds or certificates may be issued to pay for cost of improvement.
130. Proceedings on assessment of benefits.
131. Assessments payable in installments.
132. Collection of assessments to be enforced in manner provided by law.
133. Advantages of act authorizing such improvements, how secured.
134. Money for acquiring real estate and paying damages for such improvements, how provided.

4. FORMATION OF WARDS.

135. Mayor may appoint commissioners to divide city into wards.
136. Power and salary of commissioners.
137. Existing ward lines, when abolished.
138. Tenure of existing ward officers.
139. Commissioners to define election districts.
140. Term "ward" defined.
141. Repealer.
142. Election of aldermen and other officers in new wards.
143. Repealer.

5. MISCELLANEOUS ACTS.

144. Ordinances authorized to fix license fees for cars.
145. Act applicable to horse cars only.
146. City may borrow money to light streets.
147. Temporary bonds may be issued therefor.
148. Such bonds paid by taxation.
149. Construction of frame buildings, how regulated, &c.
150. Repealer.
151. City funds to be paid to whom. Authority to borrow, in whom vested.
152. Moneys expended shall be by warrant on treasurer.
153. Repealer.
154. Warrants and claims shall be presented to mayor for approval.
155. Duty of mayor as to approval or disapproval.
156. Board ordering payment may pass bill over mayor's disapproval.
157. Certain sums may be expended in anticipation of appropriations.
158. Cities may issue bonds to furnish water-supply.
159. Such bonds not to be issued until certain conditions are complied with.
160. Ordinances, notices, &c., to be published for what time.
161. Certain ordinances to be published by title only.
162. Failure to make certain advertisements not to invalidate ordinances.
163. Cost of publication of ordinances granting certain privileges to be paid by grantees.
164. Official newspapers, how to be selected.
165. A weekly newspaper may be selected.
166. Present official newspapers continued temporarily.
167. Repealer.
168. Question of purchase of works, &c., for water-supply to be submitted to voters.
169. Notice of election to be advertised.
170. How election shall be conducted.
171. How votes shall be canvassed.
172. Cost of election, how provided for.

III. CITIES OF THE SECOND CLASS.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

173. Appointment and term of city clerk.
174. Repealer.
175. Salaries of certain officers may be modified.
176. Employment of assistants to city engineer or surveyor.
177. Term and salary of superintendent of streets and sewers.
178. Repealer.
179. Term of city treasurer.
180. Repealer.
181. Appointment, term and salary of city physician.
182. Repealer.
183. Term and salary of city treasurer.
184. Repealer.
185. Member of board of health and commissioner of public instruction may hold other offices.
186. Repealer.
187. Term and salary of city clerk and street commissioner.
188. Repealer.
189. City treasurer's term extended to five years.
190. Repealer.
191. Salary of mayor increased.
192. Repealer.
193. Two councilmen or aldermen to be elected from each ward.
194. Office of certain retiring members to cease at expiration of term.
195. When term expires in 1892 no election to be held.
196. Repealer.
197. Date of charter election may be changed.
198. Terms of office to begin with fiscal year.
199. Repealer.
200. Act not to apply to certain officers.
201. Repealer.
202. Election of president of board of aldermen or common council required.
203. Provisions of act to be submitted to vote of people.
204. Salary of president.
205. When act not to apply.
206. Appointment of overseer of poor and commissioners of appeal.
207. Vacancies in commissioners of appeal, how filled.
208. Salary of commissioners of appeal.
209. Office of previous commissioners abolished.
210. Repealer.
211. Compensation of recorder, how fixed.
212. Salary not to be increased or diminished during term.
213. Repealer.
214. Recorder may appoint police clerk. His duties, term and salary.
215. City may borrow money to pay salary of such clerk.
216. Repealer.
217. Term of officers appointed by governing body, how limited.
218. Consolidation of city offices.
219. Duties, salary and term of officers, how fixed and determined.
220. Act includes all officers except those in school department.
221. Offices may be declared vacant.
222. Entry upon duties construed to be acceptance of office.
223. Repealer.

2. STREETS AND SEWERS.

224. Proceedings where report of commissioners of street or sewer improvements is defective.
225. Governing body may set aside moneys for street improvement fund.
226. Fund, how used.
227. Repealer.
228. Assessments for street and sewer improvements may be paid when.
229. Issue of bonds authorized. Amount of bonds apportioned amongst owners of lands.

3. WATER-SUPPLY.

230. Cities may issue additional bonds to extend water works, &c.
231. When lawful to purchase additional land, &c., for extension of water-supply.
232. May purchase lands by agreement or direct condemnation thereof.
233. When and by whom commissioners to be appointed for condemnation.
234. Proceedings by commissioners. Proceedings on appeal.
235. Compensation of commissioners, how fixed and paid.
236. Amended by section 240.
237. Supply of water by another municipality.
238. Sinking fund created for redemption of bonds.
239. Repealer.
240. Issue of bonds for extension of water-supply authorized.
241. Repealer.
242. Governing body may acquire lands and construct water works.
243. May lay mains, &c., to reservoir along streets in adjoining municipalities.
244. May connect works with reservoir of any other city or company.
245. Works to be in charge of water board.
246. Proceedings in case of condemnation of lands.
247. Proceedings in case of appeal.
248. Bonds may be issued to pay for lands.
249. Repealer. Act to be assented to by voters.
250. Election to be held when and where.

4. WARDS.

251. Cities may divide wards.
252. Officers of old wards to continue in office.
253. Rights and duties of officers of new wards.

5. MISCELLANEOUS ACTS.

254. Cities may issue bonds to certain creditors.
255. Further temporary indebtedness not to be incurred.
256. Fiscal year may be changed.
257. Repealer.
258. Mayor must approve resolution involving expenditure of more than $50.
259. Repealer.
260. Unexpended balances of appropriations, how expended.
261. Gas and electric light, heat and power companies may consolidate.
262. How consolidation shall be made.
263. Taxation of property of consolidated company.
264. Repealer.
265. To what cases of consolidation act applies.
266. Detailed statement of expenditures to be published monthly.
267. Newspapers to be designated for such publication.
268. Repealer.
269. Amended by section 273.
270. Sale of bonds issued for floating debt.
271. Repealer.
272. Amendment of title to act.
273. Certain cities may issue bonds for their unfunded or floating debt.
274. Repealer.
275. Date of charter elections.
276. Repealer.
277. When temporary bonds in anticipation of renewal bonds may be issued.
278. Awards for damages may be set off against taxes and assessments due and unpaid.

IV. CITIES OF THE THIRD CLASS.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

279. Term of members of council.
280. Shall divide themselves into classes.
281. Term of city recorders.
282. Amended by section 288.
283. Appointment, term and compensation of city attorney.
284. Repealer.
285. Amended by section 288.
286. Amended by section 289.
287. Amended by section 290.
288. Election, compensation and duties of city clerk.
289. His term of office.
290. Repealer.

2. STREETS.

291. Proceedings for paving one principal avenue or street. Assessment of benefits.
292. Balance of cost to be paid by city. Issue of bonds therefor.
293. Interest on bonds raised by tax. Bonds, how sold.
294. Proceedings for laying out, opening or altering streets. Condemnation of lands, &c.
295. Proceedings of commissioners in making awards of damages. Appeal.
296. Damages to be paid in sixty days.
297. Upon agreement for lands, sum to constitute part of expenses assessed.
298. Interest on assessments. Duty of city clerk.
299. Assessments not to exceed benefits.
300. Assessments a first lien.
301. Street may be laid out though the ending-point is not in a public highway.
302. Collection of assessments. How enforced.
303. Terms on which land may be redeemed.
304. Declaration of sale to be delivered and recorded. Rights of purchaser.
305. Certificates of sale to be recorded by city clerk.
306. Proceedings where owners of lands to be taken for street uses are *non compos mentis*, &c.
307. Commissioners to take oath.
308. Where assessments are set aside proceedings may be re-instituted.
309. Paving of streets in certain cases may be authorized by resolution instead of ordinance.
310. Repealer.
311. Street improvements may be paid for by general tax.
312. Governing body shall fix amount to be expended. Issue of bonds.
313. Term and conditions of bonds. Sinking fund to be established.
314. Question of issuing bonds to be submitted to voters.
315. Governing body shall decide what streets shall be first improved.
316. Improvement certificates may be issued.
317. Bonds limited to a certain amount.
318. Street improvements may be made by contract.

3. WARDS.

319. Governing body may create and re-adjust wards where wards have heretofore existed.
320. Certain ward officers to be elected.
321. Councilman or alderman-at-large shall be elected.
322. Construction of word "or."
323. Wards may be created where they have not heretofore existed.
324. Number to be in proportion to population.
325. Election districts how constituted.
326. Aldermen to be elected. Mayor and aldermen a body politic.
327. County board of registration to appoint boards of registry and election.

4. MISCELLANEOUS ACTS.

328. Election districts in cities of third class.
329. Appointment of election officers.
330. City may accept bonds for assessments in lieu of cash.
331. Bonds to be filed and recorded by city treasurer.
332. Assessments to bear interest until paid. When lands shall be sold.
333. Repealer.
334. License fees may be authorized to be paid to tax collector instead of city clerk.

V. CITIES OF THE FOURTH CLASS.

335. Certain cities authorized to lay out and open streets, &c.
336. Proceedings therefor.
337. Proceedings of commissioners to estimate damages and benefits.
338. When lands condemned shall become vested in city. Assessments a lien on lands.
339. Proceedings where owner of lands taken is under age, &c.
340. Amended by section 349.
341. Amended by section 350.
342. Compensation and duty of commissioners.
343. Appointment and powers of committee on streets, walks and drives.
344. Interest on unpaid assessments. Sale of lands.
345. Use of streets, &c., how regulated.
346. Construction of public walks above surface of ground authorized.
347. Approaches thereto may be made.
348. Dedication of lands for streets or walks may be accepted.
349. Cost of improving streets and walks assessed on owners of lands benefited.
350. Bonds for such improvements may be issued. Redemption of bonds, how provided for.
351. Construction of word "cities."
352. Amendment of title of act.
353. Proceedings for repairing or paving streets.
354. Notice of assessments to be served on owners of lands.
355. Assessments collected to be credited to such repairs account.
356. Repealer.
357. Proceedings for building or repairing sidewalks.
358. Notice of assessments to be served on owners of lands.
359. Assessments collected, how credited.
360. Repealer.
361. Bonds in excess of amount allowed by charter may be issued.
362. Sinking fund to be created.
363. Acceptance or rejection of act to be submitted to vote of people.
364. Repealer.
365. Improving streets, how authorized.
366. Assessment of benefits for improvement.
367. Street grades may be changed.
368. Bonds may be issued.
369. Sinking fund, how created.
370. Limitation of indebtedness contained in city charter not to apply.
371. Additional powers concerning street improvements.
372. Such improvements, how authorized.
373. Street improvement bonds may be issued.
374. Principal and interest of bonds, how paid.
375. Governing body may lay out public park on ocean front.
376. Interior inland line, how established.
377. Lands outside of such interior line, how acquired.
378. Elevated public walk may be constructed, &c.
379. City may accept lands dedicated for certain purposes.
380. City may regulate the uses of such public lands, &c.
381. Proceedings for condemning lands, &c.
382. Assessments for benefits may be made.

VI. CITIES HAVING LESS THAN 10,000 INHABITANTS.

1. CITIES HAVING BETWEEN 6,000 AND 10,000 INHABITANTS.

383. Mode of adopting provisions of act.
384. On adoption of act, how former powers, &c., affected.
385. Certain words defined.
386. Division of city into wards.
387. Time of holding annual election.
388. Time of opening and closing polls.
389. Who may vote.
390. What officers to be elected. Terms of.
391. Tenure of persons now in office.
392. Powers and duties of mayor. Appointment of police.
393. Meeting of common council for organization.
394. Powers of common council.
395. For what purposes ordinances may be passed.
396. Licensing shows and exhibitions.
397. License fees to be paid to city treasurer.
398. Officers' fees.
399. Meeting of common council to be public.
400. Vacancies in office, how filled.
401. Ordinances to be approved by mayor. Proceedings in case of disapproval.
402. Enacting clause of ordinances.
403. For what purposes moneys may be raised by tax.
404. Proceedings when a greater sum than $10,000 is necessary to be raised in any one year.
405. May borrow in anticipation of taxes.

406. Amount authorized to be raised may be increased or decreased by vote of people.
407. Powers and duties of city judge.
408. Council to prescribe penalties for violation or ordinances.
409. Suits, how brought and prosecuted.
410. Witness not incompetent by reason of being an inhabitant.
411. Court of city judge to be court of record, &c.
412. Name of court. Proceedings in, &c.
413. Proceedings pending at end of term of city judge, how continued.
414. What officers may serve process.
415. Powers of policemen.
416. Proceedings may be reviewed by appeal.
417. Fees for making return to writ of *certiorari*.
418. Party applying for *certiorari* to give surety.
419. Costs to be paid on affirmance by defendant.
420. Powers of excise board.
421. No person to sell liquors without license.
422. Penalty for illegal sales.
423. Treasurer and collector to give bond.
424. Powers and duties of election officers, assessors, &c.
425. Treasurer to receive and pay all moneys and make annual statement.
426. When taxes to be assessed, collected, &c.
427. Commissioners of appeal, when to meet, &c.
428. Duties of constables, poundkeepers and overseers of poor.
429. Duties of corporation counsel.
430. Term of officers appointed by mayor.
431. Oaths of office to be taken within ten days after election.
432. Proceedings for opening streets, &c.
433. Notice to be given of time and place of meeting of commissioners. Appeal.
434. Proceedings where no appeal is taken.
435. Amount of damages and expenses to be assessed.
436. When objections to opening street shall not be valid.
437. Ordinances for grading streets, &c., may be passed. Expenses to be assessed.
438. Curbing, flagging and paving sidewalks.
439. Proceedings when owners neglect to repair sidewalks.
440. Assessment to be paid within thirty days after confirmation.
441. Proceedings if assessment is not paid.
442. Redemption of lands sold for non-payment.
443. Declaration of sale to be delivered in case lands are not redeemed.
444. Certificates of sale and assignments to be recorded.
445. Assessments to remain a lien.
446. When street to be recognized as public.
447. Proceedings if owner is non-resident.
448. Proceedings if owner is under age, &c.
449. Deductions from rent to be allowed tenants who pay assessments.
450. Stone crosswalks may be constructed at city expense.
451. Rate of interest on assessments.
452. Assessments not to be in excess of benefits.
453. Assessments to be a first lien.
454. Proceedings for collection of delinquent taxes.
455. Warrant to be recorded.
456. Collector to give notice of time and place of sale.
457. Collector to deliver certificate of sale.
458. Collector to make return of warrant, &c.
459. Return to be recorded.
460. Certificate of sale to be recorded.
461. When property may be redeemed.
462. Proceedings if lands sold are not redeemed.
463. Record of tax sales to be evidence.
464. Notice to be given to mortgagee, &c.
465. Return of unpaid taxes to be made annually.
466. Returns to be recorded.
467. When tax shall cease to be a lien.
468. Fees and expenses incurred to be paid by delinquent.
469. Portion of cost of altering street may be assessed on railroad company using it.
470. Work that may be done by resolution instead of ordinance.
471 When remonstrance shall prevent improvement.
472. Street may be paved on petition of owners.
473. Commissioners of assessments to take oath, &c.
474. Proceedings in case assessments shall be set aside.
475. May contract for construction of water works.
476. Contract to be signed by mayor, &c.
477. Contract shall provide for laying of water pipes, &c.
478. Penalty for damages to water works, &c.
479. Limitation of term of contract for operating water works.
480. Collection of water rents.
481. May pass ordinances for laying sewers, drains, &c.
482. Commissioners of sewerage to be appointed.
483. Proceedings in case of disagreement between commissioners and owners of lands needed.
484. Payment to owner on confirmation of report.
485. Commissioners may use ground or soil under streets, &c.

2. CITIES HAVING NOT MORE THAN 5,000 INHABITANTS.

486. When votes at municipal elections to be counted and canvassed, &c.
487. Appointment of assessors and collectors of taxes.
488. Ordinances, how passed and published.
489. Treasurer to make quarterly statements.
490. Annual salaries of officers.
491. Limitation of city indebtedness. Collection of assessments, how applied.
492. Moneys of sinking fund, how invested.
493. General powers of board of aldermen.
494. Excess of costs of improvements over benefits, how raised.
495. Members of board of aldermen or education not to hold salaried offices or be interested in contracts.
496. Limitation of money raised for current expenses of schools.
497. Examination of books and accounts of officers.
498. Payment of claims to persons in arrears in payment of taxes.
499. Certain words, how construed.
500. Act not to apply to certain cities.

VII. CITIES GENERALLY.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

501. Commissioners to regulate municipal affairs appointed by legislature abolished.
502. Mode of choosing boards in lieu of such commissions.
503. Salary of city treasurer.
504. Members of board of works, &c., when elected by people, to give bond.
505. Salaries of officers, how fixed in certain cities.
506. Salary not to be changed during fiscal year.
507. Act applies to certain cities only.
508. Acts providing for appointment of municipal commissioners repealed.
509. Term of office of such commissioners determined.
510. Election of councilmen in certain cities of less than 10,000 inhabitants.
511. Vacancies filled by special election.
512. Time of opening and closing polls.
513. Repealer.
514. Office of street commissioner abolished in certain cities.
515. Repealer.
516. Election of councilmen-at-large in certain cities.
517. Councilmen to give bonds.
518. Mayor not to receive salary.
519. Salaries of assessor, collector and city clerk.
520. License fees, &c., to be paid into sinking fund.
521. Repealer.
522. Limitation of expenses of commissioners of streets and sewers in certain cities.
523. Repealer.
524. Election of aldermen in certain cities of 4,500 to 7,000 inhabitants.
525. Time of opening and closing polls.
526. Repealer.
527. Aldermen not to have salaries in cities of 20,000 to 35,000.
528. Act not to affect present incumbents.
529. Salary of comptroller in cities of 50,000 to 100,000 inhabitants.
530. Comptroller to make annual statement.
531. Repealer.
532. Vacancies in office of common council, &c., how filled.
533. To what cities act not applicable.
534. Each municipal board may employ its own officers, &c.
535. Concurrent action of different boards not required.
536. Repealer.

537. Cities may create office of comptroller. Salary.
538. Comptroller's election and term of office.
539. Comptroller to take oath and give bond.
540. Duties and power of comptroller.
541. Unlawfully signing warrants a misdemeanor.
542. Terms of all city officers extended until appointment of successors.
543. Appointment of corporation counsel, and attorney in certain cities by board of finance.
544. Election, term and salary of chief engineer.
545. Repealer.
546. Board of finance, how appointed.
547. Act not to affect present incumbents.
548. Vacancies, how filled.
549. Repealer.
550. Amended by section 552.
551. Repealer.
552. Annual salary of city physicians, how fixed.
553. Repealer.
554. Term of city attorney or counsel, how fixed.
555. City treasurer may appoint assistant.
556. Amended by section 559.
557. City treasurer responsible for acts of assistant.
558. Repealer.
559. Compensation of city treasurer, how fixed.
560. Salary of clerk of city treasurer.
561. Salary of commissioners of water works in cities of over 100,000 inhabitants.
562. Repealer.
563. Creation of board of commissioners to assess benefits for street improvements.
564. Board of aldermen, &c., may elect clerk.
565. Repealer.
566. Board of finance may increase number of assistants to city clerk.
567. Repealer.
568. Inspector of buildings may be appointed.
569. Qualifications and duties of inspector.
570. No building to be moved or erected without permit.
571. Salary and term of inspector.
572. Inspector may be removed for cause.
573. Repealer.
574. Term of mayor.
575. Powers and duties of mayor.
576. Terms of councilmen, &c.
577. Time of holding municipal elections. Terms of city officers.
578. Salary of mayor. Appointment and duties of board of education.
579. Act to be submitted to voters.
580. Repealer.
581. Who shall perform duties in absence of heads of departments.
582. Inspectors of public works, how appointed.
583. Qualification and salary of inspectors.
584. Fees of city collector and treasurer.
585. Office of surveyor of highways may be abolished.
586. Repealer.
587. Board of finance may fix salaries of force in city clerk's office.
588. Repealer.
589. Term of office of mayor.
590. Repealer.
591. Compensation of city marshal or sergeant-at-arms.
592. President of common council, &c., may vote on all questions.
593. Repealer.
594. Water registrar may have assistants.
595. Repealer.
596. Term of treasurer in certain cities to expire with that of comptroller.
597. Repealer.
598. Salary of city clerk, how fixed.
599. Repealer.
600. Term of office of city physician. Salary.
601. Repealer.
602. Common council, &c., how composed in cities of 12,000 to 15,000 inhabitants.
603. Repealer.
604. Governing body in cities of over 50,000 inhabitants, how composed.
605. Term of office of certain councilmen, &c., determined.
606. Manner of choosing second member of council, &c., where there is only one now.
607. Term of such officers hereafter.
608. Repealer.
609. Salary of mayor in city having 75,000 to 100,000 inhabitants.
610. Term of clerk of board of aldermen fixed.
611. Appointment, terms, duties, &c., of officers in cities of 55,000 to 100,000 inhabitants.
612. Repealer.
613. Officer failing to subscribe oath within prescribed time may nevertheless qualify for office.
614. Repealer.
615. City comptroller's salary may be increased in cities having over 75,000 inhabitants.
616. No alderman or councilman to hold office or perform duty after expiration of term.
617. Repealer.

2. STREETS, SEWERS, SIDEWALKS AND PARKS.

(a) *Of streets only.*

618. Receiver of corporation may sign petition for street improvement.
619. City having between 15,000 and 117,000 inhabitants may lay out avenue.
620. When to be laid out.
621. Petition for improvement required.
622. May borrow such sum as shall be necessary to pay expenses.
623. Commissioners to make awards for lands taken.
624. Benefits to be assessed.
625. Improvement, how made.
626. May use any street, road, &c.
627. In cities having not more than 5,000 inhabitants, where lands have been illegally taken, commissioners may be appointed.
628. Application to be in writing.
629. Notice of application to be given.
630. Appointment of commissioners.
631. Commissioners to take oath.
632. Duties of commissioners.
633. Report to be filed.
634. Proceedings on filing of report.
635. Proceedings if report is not ratified.
636. Amount to be paid to owner for lands taken or damages sustained.
637. When land considered as lawfully condemned.
638. Vacancy among commissioners, how filled.
639. Compensation of commissioners.
640. Restriction of act.
641. Damages done by altering grade, how fixed.
642. Contract for cleaning streets, &c., how terminated.
643. Cities authorized to open streets where same are now opened at both ends.
644. Proceedings where city authorities and landowners cannot agree.
645. Proceedings on appeal from commissioners.
646. Act not to apply to street heretofore vacated.
647. Benefits to be assessed.
648. City may borrow money and issue bonds.
649. Sinking fund, how established.
650. Repealer.
651. Cities may pave streets, &c., at general expense.
652. Awards for damages for lands taken, how to be paid.
653. When city may enter on lands and complete improvement.
654. Repealer.
655. City may construct tunnel under water-way to connect streets.
656. Proceedings on application for such construction.
657. Costs of construction to be paid by city. Bonds may be issued.
658. City may acquire lands necessary therefor.
659. Bonds, how paid.
660. Contract may be made with owners of lands fronting on tunnel for approaches, &c.
661. Estimated cost of tunnel required to be filed.
662. On altering grades of streets damages may be awarded to owners of buildings.
663. Damages assessed on lands benefited.
664. Repealer.

665. Proceedings for opening streets where ownership of land required is in dispute.
666. One-half of license fees to be set aside for street repairs.
667. Repealer.
668. Street may be paved notwithstanding objections thereto.
669. Repealer.
670. Proceedings for grading, curbing, paving and sewering streets, &c.
671. What costs shall be assessed on properties.
672. Statement of costs to be filed, &c.
673. Assessments to be paid in five annual installments.
674. Annual installments required to be paid with taxes.
675. Collection of assessments, how enforced.
676. City may issue improvement certificates.
677. Fiscal officers to keep account thereof.
678. Governing body shall pass resolution with itemized statement, and certify same to board of finance who shall borrow necessary amount.
679. Paving of streets authorized.
680. Proceedings for paving streets.
681. Benefits to be assessed. Proceedings thereon.
682. Notice of assessment, how given.
683. Collection of assessments, how enforced.
684. Bonds may be issued in anticipation of assessments.
685. Bonds may be issued for balance of costs over assessments.
686. Interest on bonds, how raised, &c.
687. City council in certain cases take and accept lands for altering or widening streets.
688. Shall make compensation therefor.
689. Assessment of damages and benefits.
690. Assessment, how made and reported.
691. Report when ratified shall be binding.
692. Damages awarded may be sued for.
693. Payment of damages, how made and effect of.
694. Proceedings on assessing benefits, &c.
695. Assessments to be a first lien, &c.
696. Notice of assessment to be served on persons assessed. Sale of lands.
697. How assessments shall be paid.
698. Assessments to be made on lots as recorded in city atlas.
699. When assessment has been set aside, new assessment to be made.
700. When assessment is set aside council may re-institute proceedings.
701. Assessor who is interested not competent to act.
702. Council and railroad company may agree on proportion of expense for improving street.
703. Council shall provide for improvements.
704. Benefits to be assessed.
705. Council may borrow money for improvement.
706. Bonds may be issued.
707. Requisites of proper assessment.
708. Proceedings of board of assessors.
709. Notice of assessments to be given by publication.
710. Collection of assessments, how enforced.

(b) Of sewers only.

711. Assessments for costs of sewer running through adjoining cities.
712. Repealer.
713. Cities to have unobstructed outlets for culverts notwithstanding rights of riparian commissioners.
714. Repealer.
715. General system of sewerage and drainage authorized.
716. Proceedings for constructing sewers, assessing benefits, enforcing collection thereof, &c.
717. Construction of certain words.
718. Temporary certificates or bonds may be refunded by permanent bonds.
719. Principal and interest of bonds, how paid.
720. Excess of cost over benefits to be raised by tax.
721. Benefits of main sewer may be assessed on property adjoining lateral sewer.
722. Bonds may be issued for amount required to be paid by
726. Proceedings in case of dissatisfaction with appraise awards.
727. Cost of lands deemed part of cost of construction.
728. Construction of "board of aldermen."
729. Sewer may be constructed notwithstanding objections landowners.
730. Repealer.
731. When sewer is constructed through private lands, asse ments may be made thereon.
732. Assessments a lien on lands.
733. Sewer may be constructed notwithstanding objections landowners.
734. Repealer.
735. House connections with sewers may be made by ci authorities to curb line.
736. By whom costs of house connections to be paid.
737. Repealer.
738. Assessments may be paid in ten annual installments.
739. City may acquire land for a connecting sewer.
740. Expense thereof, how provided for.
741. Bonds may be issued.
742. Proceedings when sewer constructed in adjoining cities insufficient to carry off sewage.
743. May borrow money for enlarging sewer capacity.
744. Repealer.
745. City may construct sewer when it has been indicted f maintaining a nuisance.
746. Petition to be signed by owners of one-half of line frontage.
747. City may construct main sewers in certain districts.
748. Application of owners for construction of sewers.
749. Cost of construction assessed on lands benefited.
750. Excess of cost over benefits to be paid by city.
751. Private lands necessary may be acquired.
752. Act to apply to sewers in course of construction.
753. Assessments to be paid into sinking fund.
754. City may issue bonds for whole cost of sewers.
755. When further sums shall not be raised by taxation.
756. What localities embraced in provisions of act.
757. Owner of land may commute for a fixed sum the payme of annual sewer tax.
758. Cities authorized to commute sewer tax.
759. When lands shall be exempt from further sewer tax.
760. Moneys received for commutation of sewer tax, ho applied.
761. Moneys in sinking fund, how to be invested.
762. Amount that city may expend for sewers.
763. Bonds may be issued, how redeemed.
764. Costs to be assessed on property benefited.
765. Assessments paid in ten equal annual installments.
766. Bonds in excess of benefits, how paid.
767. Act to be submitted to voters.
768. Proceedings for reconstructing main sewers at joi expense of two cities.
769. Proceedings for appointment of commissioners to rebui sewer.
770. Commissioners may make contracts, &c.
771. Amended by section 780.
772. Upon completion of sewer, assessment to be made.
773. Benefits to be assessed.
774. Amended by section 781.
775. Commissioners may enter on lands and remove materia from old sewer.
776. Vacancies in office of commissioners, how filled.
777. Assessments to be a lien on land.
778. How sewer to be kept in repair.
779. Repealer.
780. Commissioners to issue requisitions on city to be drained.
781. Compensation of commissioners and clerk, how fixed.
782. Repealer.
783. Lands acquired by purchase or condemnation.
784. Commissioners to issue requisitions on city drained.
785. Repealer.
786. Commissioners authorized to continue outlet sewer.
787. Outlet sewer, how constructed.
788. What lands sewer need not drain.

794. Additional lands, how acquired.
795. May erect buildings for deodorizing sewage, &c.
796. What acts and proceedings may be by resolution.
797. Ordinance not to be acted on until notice of intention is published.
798. Appointment and compensation of committee on sewers.
799. May acquire necessary lands by purchase.
800. Proceedings when agreement to purchase cannot be made.
801. Duty of commissioners appointed to condemn.
802. Right to take lands upon payment of award.
803. Appeal from award of damages.
804. Appointment of commissioners to assess benefits.
805. Commissioners to take oath, make assessment, &c.
806. Commissioners to make report of assessment.
807. Commissioners to take oath.
808. Compensation of commissioners.
809. Mistakes not to invalidate assessments or sales.
810. Amended by section 842.
811. Bonds may be issued to pay costs of sewers and drains for surface-water.
812. Assessment to be a lien on lands.
813. Notice of assessments to be given.
814. Tax collector or receiver to sell lands.
815. Certificate of sale delivered to purchaser. What certificate to contain.
816. Record of sales and certificates to be kept.
817. City may assign certificates.
818. Rights of mortgagees, how protected.
819. When owners may redeem lands.
820. City to execute declarations of sales to purchasers.
821. City clerk to give certificates of search.
822. Compensation and fees to tax collector and city clerk.
823. Amended by section 843.
824. Renewal of obligations, &c.
825. Issue of bonds authorized.
826. When bonds may be for whole cost.
827. Bonds issued, when payable.
828. Tax arrearage bonds may be issued.
829. Amended by section 837.
830. How city obligations shall be signed.
831. Interest on obligations to be raised by tax.
832. Cost of sewer may be raised by tax in lieu of bonds.
833. What work shall be awarded to lowest bidder.
834. Statement of obligations to be published annually.
835. Public water-supply not to be defiled.
836. Words "common council," how construed.
837. Interest on and sale of city obligations.
838. Cities may construct sewers and drains.
839. House connections may be built to curb line.
840. Cost thereof charged to lots particularly benefited.
841. Repealer.
842. Assessments of damages and benefits, by whom made. Proceedings.
843. Council may borrow money on temporary obligations.
844. Duty of common council, &c., when system of tidal sewers do not efficiently drain low lands.
845. Common council may make additions to outlet sewers.
846. Shall advertise for proposals for said work. Bonds may be given.
847. May enter on lands and acquire the same by purchase or condemnation.
848. Improvement certificates may be issued.
849. Improvement certificates may be funded by bonds. Sinking fund established.
850. Repealer.
851. Unnavigable water-course may be used to carry inclosed sewer.
852. Proceedings on application therefor.
853. Benefits to be assessed.
854. Excess of cost over benefits, how paid.
855. Lands may be acquired by purchase or condemnation. Improvement certificates may be issued.
856. Benefits and sewer taxes when collected to be paid into sinking fund.

(c) *Of sidewalks only.*

857. Cities may by ordinance regulate construction of side-
861. Assessments for sidewalks may be placed bill.
862. Sidewalks, how repaired.
863. Repairs to sidewalks, how required in citie second classes.
864. What fund may be used for such repairs.
865. How assessments when collected shall be dis
866. Repealer.

(d) *Of streets, sewers, sidewalks and pa*

867. Cities may raise capital fund for improven and construction of sewers.
868. Capital fund, how applied.
869. Legal requirements to be complied with.
870. Sum authorized for improvements to be ordinance.
871. Assessments a lien on lands.
872. Moneys collected from assessments, how ap
873. Proceedings to require repairing of sidewalks
874. Capital fund may be raised for opening stree
875. How capital fund to be designated in ordina
876. Temporary certificates or bonds may be issu the first class for paving and repaving stre
877. How such temporary obligations shall be ma
878. Control of streets, parks and sewers vested i
879. Street commissioner to be appointed.
880. Powers of former officers abolished. Asse collected.
881. Assessments to be made on lands especially to be a lien.
882. Notice of confirmation of assessments to be
883. Making and collecting assessments, how pro
884. Repealer. Act to be submitted to voters.
885. Owners of one-third of frontage may petitio of cost for street and sewer improvements.
886. When city shall advertise for proposals provement.
887. Improvement not to create a general debt ag
888. Damages and benefits to be assessed.
889. Commissioners to take oath.
890. Commissioners to give notice of meeting, nesses, &c.
891. Persons interested to have public hearing.
892. Proceedings after the coming in of commissi
893. Payments, when to be made.
894. Lands may be sold for payment of assessmen
895. Contractors to look wholly to assessments f pensation.
896. Moneys collected from assessments a sepa improvements.
897. Private lands may be acquired.
898. Compensation of commissioners.
899. License fees may be appropriated for im streets and construction of sewers.
900. Main thoroughfare may be improved.
901. Repealer.

3. WATER-SUPPLY.

902. Cities may purchase water works, &c., fro company.
903. Proceedings in case of disagreement betw water company or owner required.
904. In case of no appeal, payment to be made. on appeal.
905. Appointment of engineers, &c.
906. Advertisement for proposals to do work.
907. Contracts to be in writing.
908. Amended by section 918.
909. Treasurer to keep books of account.
910. Board of aldermen, &c., may make rules an
911. Water rents to be a lien. When payable.
912. Amended by section 919.
913. Amended by section 920.
914. Proceedings in case receipts are less than ex
915. Additional sum may be assessed to cover defi
916. Penalty for injury to property or works.

921. Water commissioners in any city to have the powers of this act.
922. Cities owning water works to have rights and privileges conferred by this act.
923. Assessments for water-supply to be a lien on property.
924. Repealer.
925. City may lay pipes across any lands.
926. Water commissioners may permit persons to connect with pipe.
927. City may lay pipes through any municipality to the source of its water-supply.
928. Construction of act as to engineers.
929. Consent of council required before making contract, &c.
930. What money shall be paid into sinking fund.
931. Residue of revenue, how expended.
932. Repealer.
933. Requisites for legal issue of water scrip.
934. When concurrence of board of finance, &c., not required.
935. Repealer.
936. Water mains may be extended beyond city limits.
937. Town committees, &c., may contract with cities for water-supply.
938. Repealer.
939. Water may be shut off from building of person neglecting to pay rent.
940. City may contract to supply water to another municipality.
941. When city may contract for water-supply.
942. May lay pipes and mains in streets, &c.
943. Work to be done by contract with lowest bidder.
944. Council may furnish water and fix rates to persons, &c.
945. Penalties for non-payment of water rent.
946. Employment of water purveyor, &c.
947. Rules for tapping mains, &c., how fixed.
948. Bonds may be issued for extending water-supply.
949. Moneys received for water rents, how applied.
950. Deficiency to be raised by tax.
951. Construction of word "city."
952. Aqueduct boards to make annual statement, &c.
953. Amended by section 964.
954. Board may borrow money in anticipation of receipts.
955. Extension of water mains authorized.
956. Bonds, how issued.
957. Payment of bonds, how provided for.
958. Payment of interest on bonds, how provided for.
959. Duty of sinking fund commissioners.
960. How long bonds to run, &c.
961. When board not to exercise power under this act.
962. Repealer.
963. Contract for water-supply to be approved by common council.
964. Revenues to be paid into sinking fund and to city comptroller.
965. Repealer.
966. Cities may purchase new pumps, &c.
967. Bonds may be issued therefor.
968. Purchase to be by contract duly advertised.
969. City may issue bonds for new water-supply.
970. Bonds heretofore issued may be redeemed by new bonds.
971. Payment of principal and interest, how provided for.
972. Limitation to bonded indebtedness.
973. What bonds are exempt from taxation.
974. Board may use certain moneys for additional water works.
975. Board may acquire lands by purchase or condemnation.
976. Boards may construct reservoirs in certain cases.
977. How expense shall be provided for.
978. Temporary bonds may be issued.
979. When reservoir is completed permanent bonds may be issued.
980. Interest on bonds to be paid from water rents.
981. Proceedings for condemnation of lands.
982. Work to be done by contract.
983. Repealer.
984. Additional cast-iron pipe to connect with reservoir may be laid outside of city limits.
985. Board may issue bonds.
986. Bonds when payable. Interest on.

4. PUBLIC BUILDINGS.

989. Where work on public building has not been contracted for according to law, referee may be appointed.
990. Cities may build and maintain docks and wharves.
991. Penalty for injuring docks or wharves.
992. Repealer.
993. Cities of less than 20,000 inhabitants may build city hall.
994. Portion of building may be used as an armory.
995. Necessary moneys may be raised by bonds.
996. Building may be erected on city lands.
997. Council may erect city hall.
998. Accommodation for public officers therein.
999. Bonds may be issued therefor.
1000. Proceeds of certain lands sold may be used for purchase of other lands.
1001. Board may borrow money and issue bonds.
1002. Amended by sections 1016 and 1020.
1003. Commissioners may be appointed to acquire lands for public buildings.
1004. Amended by section 1017.
1005. Organization of commission, their powers, compensation &c.
1006. Necessary moneys to be raised by bonds.
1007. Repealer.
1008. Limit of expenditure for city hall and lands necessary therefor.
1009. Land may be acquired by purchase or condemnation.
1010. Appeal from award and proceedings thereon.
1011. Proceedings where owner is an infant, &c.
1012. Repealed by section 1018.
1013. Repealer.
1014. Amendment of title to act.
1015. Title of supplement amended.
1016. Amended by section 1020.
1017. Commissioners authorized to sell buildings and grounds not needed for public use.
1018. Repealer.
1019. Amended by section 1021.
1020. Cities authorized to erect buildings and purchase lands.
1021. Bonds not to exceed $400,000, how sold and paid.
1022. Approval of bonds and contract by mayor required.
1023. Bonds in first-class cities may not exceed $750,000.
1024. Limitation of expenditures further prescribed.
1025. City hall commissioners may purchase lands.
1026. Repealer.
1027. Bonds may be issued for purchase of lands, &c., to amount of $500,000.
1028. Act not to impair previous supplement
1029. Commissioners may furnish city hall and improve grounds
1030. When terms of commissioners shall cease.
1031. When mayor shall appoint commissioners to complete work.
1032. Such commissioners shall complete and furnish city hall
1033. Powers and duties of commissioners.
1034. Financial board shall provide for payment of expenses.
1035. What expenses to be provided for by taxation.
1036. Repealer.
1037. Members of New Jersey military board appointed commissioners to purchase site for armory in cities of first and second classes.
1038. Proceedings when commissioners cannot agree with owners.
1039. Amended by section 1056.
1040. When plans to be made. Limit of expenditure.
1041. When armory to be erected.
1042. Work to be done by contract with lowest bidder.
1043. Commission may employ superintendents and clerical aid
1044. Expenditures to be paid out of state treasury.
1045. When counties need not pay for lands for armories.
1046. Repealer.
1047. Amended by section 1053.
1048. Amended by section 1054.
1049. Amount of appropriation for armory made by aldermen and chosen freeholders.
1050. Reimbursement in case of sale of armory.
1051. Chosen freeholders may issue bonds for armory.

1054. Amount to be paid from state treasury.
1055. Appropriations for armories in Jersey City and Paterson.
1056. When chosen freeholders to set apart moneys for erection of armory. May issue bonds therefor.
1057. Appropriations for furnishing armories at Jersey City and Paterson.
1058. Board of finance or other body authorized, on application of freeholders, to purchase lands for docks, wharves, &c.
1059. When docks to be constructed, &c.
1060. Bonds may be issued therefor.
1061. Rates of wharfage, how fixed, collected and expended.
1062. Open space to be about city halls in certain cities.
1063. Limitation of power to expend moneys for city halls in such cities.
1064. Repealer.
1065. When appropriation shall be made for repairs to public buildings. Bonds may be issued.

5. ASSESSMENTS FOR CITY IMPROVEMENTS.

1066. Ordinance may be passed authorizing the taking of lands from owners of land for payment of assessments for benefits.
1067. Bond may be given by landowner for excess of benefits over damages.
1068. City may issue bonds for cost of improvement where persons assessed have given bonds.
1069. Previous laws not impaired hereby.
1070. Cost of street and sewer improvements to be assessed according to benefits.
1071. Repealer.
1072. Amended by section 1073.
1073. Where assessments have been set aside as to one or more prosecutors only, circuit court may appoint commissioners to make new assessments.
1074. Money paid on illegal assessments to cities for public improvements to be refunded.
1075. Act applicable to pending suits.
1076. Person claiming repayment may have same applied upon any other assessment.
1077. Common council, &c., may vacate certain illegal assessments, and order new assessment to be made.
1078. How illegal assessments may be set aside.
1079. Provisions for agreeing upon rebate of assessments where same exceed benefits.
1080. Sale of lands for non-payment of assessments authorized.
1081. Certain sections not to extend to Jersey city or Paterson.
1082. Illegal assessments paid to commissioners of streets and sewers to be refunded.
1083. Act applicable to pending suits.
1084. City treasurer may receive payment of bond given for assessments, notwithstanding breach, &c.
1085. Repealer.
1086. Rebate and reduction of assessments for local improvements authorized.
1087. Illegal assessments may be adjusted by arbitration.
1088. Amended by section 1089.
1089. Overpayment of interest on assessments for street and sewer improvements to be refunded.
1090. Where assessment has been set aside as to prosecutors only, new assessment may be made.
1091. Qualification and compensation of commissioners therefor.
1092. Proceedings of commissioners.
1093. Repealer.
1094. On constructing trunk sewers assessment may be made throughout entire drainage district.
1095. Manner in making assessments in such cases.
1096. When separate assessments shall be made.
1097. Assessments not to exceed benefits.
1098. Commissioners to assess benefits for street improvements shall also award damages.
1099. Remedy of owners by way of appeal from award.
1100. Rights of owners when commissioners fail to award damages.
1101. Assessments not to extend beyond property benefited.
1102. Repealer.
1103. When assessments may be made upon parts of lots benefited.
1106. When *certiorari* is brought, supreme court n commissioners to make new assessments fo provements. Proceedings thereon.
1107. Unpaid taxes and assessments may be ded award.
1108. Compensation of commissioners.
1109. When supreme court may appoint non-resid sioners to make assessment of benefits for loc ment.
1110. Commissioners to be governed by what laws.

6 MUNICIPAL BONDS.

1111. When additional bonds may be issued by c floating debt.
1112. Construction of word "debt."
1113. Form of certificate of guaranty by city of ga bonds.
1114. Cities having over 100,000 inhabitants may issu water bonds.
1115. Amended by section 1119.
1116. Arrears of taxes collected pledged to payn arrearage bonds.
1117. Surplus, how invested.
1118. Act not to apply to certain cities.
1119. Cities may issue bonds for floating indebtednes
1120. Payment of bonds, how provided for.
1121. Proceedings for release of lands from bon owner for assessments.
1122. Act not applicable to certain cities.
1123. Certain floating indebtedness may be funded i
1124. Act, how construed.
1125. Cities may issue bonds for amount of tax lien by them.
1126. Payment of bonds, how made.
1127. Surplus, how invested.
1128. Amended by section 1129.
1129. Provisions of act not to extend to certain citie
1130. Cities may issue bonds to pay judgments.
1131. Provisions for payment of bonds.
1132. Manner of paying interest on city debt to be p resolution.
1133. Cities having 100,000 to 120,000 inhabitants ma provement bonds.
1134. Conditions upon which bonds may issue.
1135. Improvement applied for to be advertised.
1136. Sale of bonds.
1137. Redemption of bonds, how provided for.
1138. Proceedings in case of default of payment of a
1139. Registered bonds may be exchanged for coupo
1140. Registered bonds to be registered.
1141. Certain cities of not less than 25,000 inhabitants bonds for floating debt.
1142. Further floating debt not to be incurred.
1143. Registered bonds may be exchanged for other
1144. Register of bonds to be kept.
1145. Cities may issue bonds for difference between ment and a re-assessment for improvements
1146. Power of board having control of finances.
1147. Cities may renew water bonds or scrip.
1148. Amended by section 1151.
1149. Sinking fund may be created.
1150. Repealer.
1151. Price at which bonds or scrip may be sold.
1152. Cities may issue additional water bonds to debt, &c.
1153. May issue additional water bonds for extensi mains.
1154. Fund for redemption of bonds, how created, &
1155. Restriction of act.
1156. Limit of taxation for water account.
1157. Repealer.
1158. Temporary bonds may be issued in anticipati
1159. Repealer.
1160. Deficiency for payment of annual interest on may be raised by tax.
1161. Bonds may be issued for outstanding debt, de street improvements, &c.

1165. Sinking fund to be created.
1166. Repealer.
1167. Bonds may be issued for debt imposed by annexation of territory.
1168. Provision for payment of same.
1169. Bonds issued in anticipation of taxes may be renewed when.
1170. Payment thereof, how provided for.
1171. Cities authorized to refund certain bonds falling due in 1886.
1172. Conditions of such bonds.
1173. Provision for payment thereof.
1174. Bonds may be issued to pay for water pipes, &c.
1175. What moneys to be applied to payment of bonds.
1176. Additional moneys for such payment to be raised by tax.
1177. Bonds maturing before January 1st, 1894, may be renewed.
1178. Terms and conditions of such bonds.
1179. Interest thereon to be raised by tax.
1180. Amended by section 1181.
1181. Such bonds, how sold.
1182. Certain water bonds held by savings institutions may be renewed.
1183. Interest and necessary expenses, how provided for.
1184. Water rents, how fixed, and bonds, how paid, &c.
1185. Temporary water debt may be funded by bonds in certain cases.
1186. Terms and conditions of such bonds.
1187. Interest to be paid out of water rents.
1188. Duty of board to provide for such payment.
1189. Bonds, how sold.
1190. When temporary bonds may be issued in anticipation of permanent renewal bonds.
1191. Temporary bonds to be retired by permanent bonds.
1192. Water bonds that have matured may be renewed. Terms and conditions thereof.
1193. Payment of interest, how provided for.
1194. Payment of principal, &c., how provided for.
1195. Bonds may be issued for street and sewer improvements in anticipation of collection of assessments.
1196. Assessments pledged to sinking fund.
1197. Duty of commissioners of sinking fund.
1198. Amount of bonds that may be issued.
1199. If assessments cannot be legally imposed expenses to be raised by tax.
1200. Rate of interest on bonds for public improvements prescribed.
1201. Repealer.
1202. When city bonds may be renewed.
1203. Terms and conditions of such bonds.
1204. Interest to be raised by tax.
1205. Bonds, how sold.
1206. Bonds may be issued to pay for lands acquired by purchase or condemnation.
1207. Terms and conditions of bonds.
1208. Payment shall be provided for by taxation.

7. SINKING FUND.

1209. Commissioners of sinking fund may purchase and cancel bonds before maturity.
1210. Surplus in sinking fund, how appropriated.
1211. When cost of improvement exceeds benefits, excess to be raised by tax and paid into sinking fund.
1212. Cities having less than 100,000 inhabitants may establish a sinking fund.
1213. Justice of supreme court to appoint commissioner of sinking fund, and fix his salary and bond.
1214. Term and residence of commissioner.
1215. Annual assessment for sinking fund to be raised by tax.
1216. Investment of moneys by commissioner.
1217. Redemption of bonds, how provided for.
1218. Commissioner to make semi-annual reports.
1219. City council may create and regulate sinking fund.
1220. Annual additions to sinking fund for water bonds authorized.
1221. Surplus in excess of amount necessary for redemption of a particular class of bonds to be transferred to some other fund.
1224. Commissioners to make report within thirty days, &c.
1225. Percentage of tax raised that may be expended in cities having a debt exceeding $13,000,000.
1226. Money in excess of limit of expenditure paid into sinking fund.
1227. Management and control of sinking fund.
1228. When commissioners of sinking fund may transfer moneys from one fund to another.
1229. Commissioners may cancel certain bonds.
1230. Repealer.
1231. Compensation of commissioners of sinking fund in certain cities.
1232. Sinking fund commissioners may cancel certain bonds before maturity.
1233. Repealer.

8. LICENSES.

1234. Licensing junk shops.
1235. Licensing the erection of bill-boards.
1236. Rights of licensee, how protected.
1237. Licensing bill-posters.
1238. Licensing roller-skating rinks.
1239. Licensing junk dealers by ordinance.
1240. Persons violating ordinances may be arrested.
1241. Trial, before whom to be had.
1242. Penalty for violating ordinance.
1243. Fines paid into city treasury.
1244. Repealer.
1245. Licensing omnibuses, peddlers, pawnbrokers, &c.
1246. Repealer.
1247. Licensing shows, plays, &c.
1248. Repealer.
1249. Licensing employment agencies and regulating the same.
1250. Licensing and regulating bill-posters, card-tackers, &c.
1251. Licensee may erect bill-boards, &c.
1252. License fee may be imposed for revenue.
1253. Repealer.

9. INCUMBERED CITIES.

1254. When cities may offer terms of settlement with creditors. Issue of bonds. Terms to be submitted to voters.
1255. Voters may accept or reject terms proposed.
1256. If settlement agreed to, adjustment bonds may be issued.
1257. Bonds issued may be exchanged for other evidence of debtedness.
1258. Interest on bonds to be raised by taxation.
1259. Money raised for payment of bonds to be held as a sinking fund.
1260. Revenues from licenses, &c., to be used for purchase of bonds.
1261. Repealer.
1262. When incumbered cities may issue bonds for purpose of arrangement with creditors.
1263. Bonds, how executed, &c.
1264. May be exchanged for any evidences of city indebtedness.
1265. Amended by section 1269.
1266. Money raised to be invested by sinking fund commissioners.
1267. City council, &c., may arrange for settlement with creditors.
1268. Repealer.
1269. Annual interest and principal of bonds to be raised by taxation.
1270. Bonds applicable for payment of assessments for local improvement.
1271. Value to be allowed such bonds for such payment.
1272. City may publish its proposition for settlement of its debt.
1273. When proposition shall be binding on city and creditors.
1274. Proposition heretofore made may be published.
1275. Notice to be published with proposition and mail requesting creditors to file assents or dissents.
1276. Additional tax may be levied to secure payment of bonds.
1277. Lawful to appropriate claims for unpaid taxes to payment of bonds.
1278. Repealer.

10. WARDS AND ALDERMANIC DISTRICTS.

1279. Boundary lines of aldermanic districts to conform to l

1283. Common council may divide cities into two wards
1284. Amended by section 1287.
1285. Amended by section 1288.
1286. Amended by section 1289.
1287. Cities, incorporated towns, &c., may be divided into wards.
1288. Cities may be divided into wards.
1289. Representation of wards in governing body
1290. To what municipalities act is applicable.
1291. Repealer.
1292. Amended by section 1293
1293. Wards may be divided into two wards each.
1294. Certain cities to be divided into wards to correspond with boundaries of assembly districts.
1295. When division to be made.
1296. After ward lines are changed no other wards to exist.
1297. Terms of ward officers not affected.
1298. Municipal boards, how constituted.
1299. Repealer.
1300. Cities of not more than 50,000 inhabitants may re-arrange wards, when.
1301. Officers to be elected in such wards.
1302. Councilman or alderman-at-large to be elected.
1303. Officers to be elected at first municipal election.
1304. Construction of word "or."
1305. How often wards may be changed.
1306. Amended by section 1307.
1307. Repealer.
1308. Power to divide city into wards and to increase the number thereof.
1309. Incumbents shall continue in office until others are appointed or elected.
1310. New wards to be divided into election districts.
1311. The term "ward" defined.
1312. Repealer.

11. GENERAL GOVERNMENT OF CITIES.

1313. Appointment and salaries of sundry city officers.
1314. Board of tax commissioners, appointment, term of office, salary, &c.
1315. Board to establish rules, regulations, &c.
1316. May employ assistants, &c.
1317. Certain offices to cease upon appointment of successors.
1318. Law officers, duties, terms and salaries.
1319. Street and water commissioners, appointment and terms. May employ engineers, &c.
1320. Powers and duties of street and water commissioners.
1321. Power to repave and improve streets, &c.
1322. Proceedings for changing and establishing grades of streets.
1323. Board empowered to improve streets, &c., at public expense.
1324. Expenses for improvements to be paid out of license fees received. License fees to be kept as a separate fund.
1325. Contractors for improvements to give bonds, &c.
1326. Salaries of board.
1327. Power and duties vested in board.
1328. Board of finance, appointment, term, salary and powers.
1329. Commissioners of sinking fund, appointment and term of office.
1330. Moneys needed to be raised by annual tax.
1331. Veto power of mayor.
1332. Acting mayor not to appoint any city officers.
1333. Police commissioners, appointment, term, salaries and powers.
1334. Fire commissioners, appointment, term, salary and powers.
1335. President of board of aldermen to be elected, term.
1336. Overseer of the poor, appointment, term of office and salary.
1337. Board of finance to make rules and regulations for the collection of water rents.
1338. Moneys received for permits or penalties to be paid into city treasury.
1339. Persons aggrieved may appeal to board of street and water commissioners.
1340. If any section or provision of act held invalid, not to affect other sections, &c.
1341. Money received for license fees, how expended.
1342. Salary account not to exceed amount in tax levy.
1346. Repealer.
1347. Proclamation heretofore issued legalized.
1348. Special term of supreme court may be called to office.
1349. Chief justice to prescribe manner of proceeding
1350. Chief justice to determine and direct who shal duties of office pending trial.
1351. To what cities act not applicable.
1352. Repealer.
1353. Governing body may grant the right to have co forms on sidewalks.
1354. Mayor's term of office.
1355. His election, powers and salary.
1356. Shall be head of police department, &c.
1357. Board of education may be established.
1358. Date of annual election. Officers to be elected.
1359. Vacancies, how created and filled.
1360. When council may fill vacancies.
1361. Officers to take oath and give bonds.
1362. Officers may be removed for cause.
1363. Powers and duties of common council.
1364. Duties of city clerk.
1365. Quorum. Special meetings.
1366. Ordinances, how passed and published. Mayor' or veto.
1367. Enacting clause of ordinances.
1368. Title of common council.
1369. Purposes for which ordinances may be passed.
1370. Council may adopt other ordinances and alter, repeal the same.
1371. May prescribe penalties for violation of ordinanc nances, how proven.
1372. May build and maintain city hall, &c.
1373. May build and maintain workhouses, &c.
1374. May grant tavern licenses.
1375. Mayor to make recommendations to commoi offer rewards, &c.
1376. To have powers of police justice for quelling May call out militia.
1377. Who shall act during his absence, &c.
1378. Powers and duties of other officers.
1379. Appointment of deputy tax collectors.
1380. Where collector's office shall be kept.
1381. Collector shall keep record of receipts and mak payments to treasurer.
1382. Duties of city treasurer. Beginning and end of fi
1383. Duties of city clerk and president of council.
1384. Duties of other officers.
1385. Purposes for which council may impose taxes.
1386. Organization of city assessors.
1387. Powers and duties of city assessors.
1388. Assessors to attend meeting of county board of
1389. City atlas to be made and revised.
1390. Duties of city engineer or surveyor.
1391. When tax lists shall be ready for examination b
1392. Form of duplicate.
1393. Assessment and collection of taxes. Compen assessors.
1394. Board of education incorporated.
1395. Appropriation to board of education, how made.
1396. Board to take charge of schools and school-house
1397. Council shall raise money for new school-houses.
1398. School superintendent to report annually.
1399. City treasurer to pay school taxes to superintend
1400. Power of common council to pass ordinances re streets, parks, sewers, drains, &c., and assessr benefits conferred thereby.
1401. Ordinance not to be adopted without previous nc
1402. Further proceedings may be by resolution.
1403. Council may treat with owners of lands for street
1404. When council cannot agree, city assessors damages.
1405. When land is condemned, damages shall be first
1406. Report of assessments, when binding and co Appeal.
1407. Damages may be sued for if not paid.
1408. Tender of payment shall be made to owners, &c.
1409. Assessors to give notice of meeting for

1412. Excess of costs over benefits to be paid by city at large.
1413. Proceedings for establishing and altering grades of streets.
1414. Council may regulate use of sewers, &c.
1415. Assessments to be imposed on lots as recorded in city atlas.
1416. When assessments are set aside, new assessments to be made.
1417. When common council may re-institute assessment proceedings. When *certiorari* shall not be allowed.
1418. Member of board of assessors not to be interested in any public improvement.
1419. Council may purchase or condemn gas, light, water or sewer plant.
1420. Erection of public buildings authorized.
1421. Proceedings for condemning lands for public buildings.
1422. City may issue bonds under certain conditions.
1423. Commissioners of sinking fund constituted.
1424. Temporary loans in anticipation of taxes and assessments authorized.
1425 City clerk and city treasurer to keep record of bonds.
1426. Office of comptroller may be established.
1427. Appointment and term of comptroller.
1428. Comptroller to take oath and give bond.
1429. Powers and duties of comptroller.
1430. Constitution and powers of police court. Proceedings in police court.
1431. Police justice to keep docket, &c.
1432. Police justice, how appointed. To give bond and take oath
1433. Ministerial officers of police court. Proceedings in police court.
1434. How ordinances may be proven.
1435. Rooms, &c., to be provided for police court. Times of holding court.
1436. Police court to be a court of record, &c.
1437. Fines, &c., paid to city treasurer.
1438. Police justice to make reports of moneys received.
1439. Acts not repugnant to this act to remain in force.
1440. Act to be submitted to popular vote before having effect.
1441. Act not to apply to first-class cities.
1442. Town, borough, &c., having over 5,000 inhabitants, may become a city on approval of voters at an election.
1443. When election shall be ordered.
1444. Notice of election to be advertised.
1445. Election, how conducted. Result, how certified.
1446. Governing body to divide such city into wards.
1447. When term of old officers shall expire.
1448. Governing body may temporarily fill new offices.
1449. City shall be vested with rights and property of former corporation. Adjoining municipalities may be annexed.
1450. What city and ward officers there shall be.
1451. What officers shall be elected and what appointed.
1452. Date and manner of holding annual election.
1453. Plurality of votes shall elect.
1454. Board of city canvassers, how composed. When to meet and organize.
1455. Duties of board.
1456. Proceedings in case of tie vote.
1457. Necessary qualifications for office.
1458. Vacancies in elective offices, how filled.
1459. Vacancies in appointive offices, how filled.
1460. When officers shall qualify.
1461. Certain officers to give bonds.
1462. When official term shall commence.
1463. Retiring officers shall surrender books, &c.
1464. Salaries shall be fixed by ordinance.
1465. Officers shall be governed by general ordinances.
1466. Term and duties of city clerk.
1467. Term, duties and powers of mayor.
1468. When council shall meet for organization. Quorum. Meetings. Powers and duties.
1469. Term and duties of receiver of taxes.
1470. Term and duties of city treasurer.
1471. Treasurer to receive and disburse school moneys.
1472. To furnish monthly statements and make annual report.
1473. Term and duties of city recorder.
1474. When officers may arrest without warrant.
1475. Conviction may be reviewed on appeal to common pleas.
1476. Policemen may serve process, &c.
1477. Terms and duties of assessor and overseer of poor.
1478. Term and duties of city attorney.
1479. Appointment and salary of city surveyor.
1480. Of poundkeepers.
1481. Of commissioners of appeals.
1482. Of chief of fire department.
1483. Term, powers and duties of chief of police.
1484. Board of excise commissioners, how composed. Powers and duties of.
1485. Term and duties of street commissioner.
1486. Of city physician.
1487. Annual statement of receipts and expenditures to be published by council.
1488. Contracts in which councilmen are interested to be void.
1489. How ordinances may be passed. When to take effect.
1490. Purposes for which ordinances may be passed.
1491. Council may provide for purchase of land and erection of public buildings, sewers, &c., and issue bonds therefor.
1492. May regulate use of streets by corporations.
1493. May regulate use of street dividing city from adjoining municipality.
1494. May establish police force.
1495. May pass ordinances on other subjects generally.
1496. Purposes for which council may raise money by taxation.
1497. May contract for lighting of streets.
1498. May provide water-supply.
1499. May borrow money in anticipation of revenues.
1500. May call special election to fill vacancy.
1501. Shall appoint commissioners of assessments.
1502. May lay out and improve streets, &c., and construct sewers and drains.
1503. May levy sewerage tax.
1504. How streets shall be laid out, extended, &c.
1505. How benefits and damages shall be adjusted.
1506. Proceedings in case of dissatisfaction with award.
1507. Proceedings for grading or improving streets, &c.
1508. Unfinished improvements to be completed.
1509. Proceedings for extending sewer service.
1510. Inspectors over public works may be appointed.
1511. Payment for street or sewer work not to be made until opportunity for objections to the same shall be given
1512. Lands may be condemned for sewer purposes.
1513. Governing body may contract with adjoining municipality for sewer outlet.
1514. Council may issue improvement certificates.
1515. Proceedings for assessing benefits on lands.
1516. When process to set aside ordinance for improvements shall not issue.
1517. Conditions upon which bonds may be issued.
1518. Terms and conditions of bonds.
1519. Council shall provide mode of paying interest.
1520. What moneys to be paid into incidental fund.
1521. Unpaid taxes and assessments shall bear interest.
1522. Taxes and assessments shall be a first lien. Proceedings for sale of lands.
1523. Dog tax authorized.
1524. When tax assessment shall be completed and payment of taxes demanded.
1525. Property of school districts to be vested in the city. Powers of board of education. Issue of school bonds.
1526. Board of assessment to assess benefits for street improvements. Proceedings prescribed.
1527. Any district having over 5,000 inhabitants may become a city.
1528. Proceedings of township committee in respect thereto.
1529. Notice of election to be advertised.
1530. How election shall be conducted and certified.
1531. New city to be divided into wards.
1532. New city to be separate from township. Public property to be divided.
1533. City officers to be elected annually.

12. MISCELLANEOUS ACTS.

1534. Amended by section 1535.
1535. Certain cities declared separate and distinct from townships.
1536. Cost of publishing minutes of municipal boards may be recovered.
1537. City council may make and repeal ordinances relating to partition fences.
1538. Cities having less than 3,000 inhabitants may purchase gas works.
1539. Repealer.
1540. When interest on improvement certificates shall cease.
1541. Precincts to constitute wards in cities of 5,000 to 6,000 inhabitants.

1542. Election of excise commissioners.
1543. Cities having 50,000 inhabitants or less may sell certain lands.
1544. Proceeds to be paid into city treasury.
1545. Restriction of act.
1546. Certain lands may be sold at public auction.
1547. Certain lands may be purchased by city.
1548. Appropriation for publication of minutes of municipal boards.
1549. Removal of snow and ice from sidewalks and gutters.
1550. Nuisances examined into by grand jury, &c.
1551. Duty of prosecutors of the pleas in relation thereto.
1552. Court to award a venire for jury.
1553. Who liable for costs. Nature of judgment.
1554. Costs to be a lien on lands.
1555. On failure to pay, lands may be sold.
1556. Repealer.
1557. Cities may adopt ordinances for removal of dangerous walls, &c.
1558. Penalty for violating ordinance.
1559. City may sell and convey lands purchased for non-payment of assessments.
1560. Notice of sale to be advertised.
1561. Lands to be sold separately.
1562. When sale may be adjourned.
1563. City authorities may make and publish conditions of sale, &c.
1564. Repealer.
1565. How all ordinances shall be published.
1566. Annual financial statements and public notices to be published.
1567. Compensation for publishing ordinances, &c.
1568. Repealer.
1569. Time for completing improvement to be included in advertisement for proposals.
1570. What shall be deducted from contract price if work be not done within specified time.
1571. City not to release contractor.
1572. Advertisement for proposals, what to contain.
1573. Amount to be deducted from contract price if work is not completed within specified time.
1574. The word "dog," how construed.
1575. Repealer.
1576. Preservation of city records.
1577. Numbering of buildings in cities of first and second classes.
1578. Financial statement published at end of fiscal year.
1579. May be in pamphlet form.
1580. Repealer.
1581. Wires for electric lights, how placed in cities of second and third classes.
1582. Consent of owner required for erection of poles.
1583. Wires to be not less than three feet from gas or water pipes.
1584. Authority to borrow in anticipation of revenue.
1585. Depth and construction of foundation walls, &c., may be regulated by ordinance.
1586. Suits may be maintained for necessary work in protection of walls, &c.
1587. Extension of time for transmitting annual estimates.
1588. Cities may maintain public baths.
1589. May issue bonds therefor.
1590. Repealer.
1591. Beginning and end of fiscal year, how changed.
1592. May use unexpended balances of taxes for expenses caused by change of fiscal year.
1593. Repealer.
1594. Cities may borrow in anticipation of taxes.
1595. Improvement certificates to be paid out of contingent fund, &c.
1596. Repealer.
1597. Provision for paying for necessary repairs to streets, &c.
1598. Repealer.
1599. Proceedings to determine disputed boundary lines between cities.
1600. Commissioners to take oath.
1601. Notice of meeting to be given.
1602. Commissioners may examine witnesses, &c.
1603. Charges and expenses, how paid.
1604. Repealer.
1605. City may borrow in anticipation of receipt of school moneys.
1606. Such loans, when to be paid.
1607. Requisites of resolution to expend money in cities of second and third classes.
1608. Appropriation for cleaning streets and removing garbage may be increased.
1609. Necessary money therefor may be borrowed.
1610. Inadequate appropriation for lighting streets may be increased.
1611. Regulations for parades in cities of the first and second classes.
1612. Parades on Sunday forbidden.
1613. Funeral parades with music allowed on Sunday.
1614. Penalty for violation of act.
1615. Certain ordinances not legally published validated.
1616. Searches for tax and assessment liens to be binding on city.
1617. Repealer.
1618. Cities may erect garbage crematories.
1619. May issue bonds to pay for the same.
1620. May contract with private parties for cremating garbage, &c.
1621. Repealer.
1622. Township officers shall not exercise official functions within city limits.
1623. Taxes shall be assessed and collected by city officers.
1624. Overseer of poor to be elected.
1625. Chosen freeholders to be elected.
1626. Election and powers of justices of the peace.
1627. Township committee and finance committee of city shall divide public property.
1628. Amended by section 1629.
1629. Repealer.
1630. Ordinances may be codified and printed in book form.
1631. Provision relating to payment of state and county taxes.
1632. Special meetings of governing body, how called.
1633. Repealer.

I. Classification of cities.

An act for the classification of cities of this state for the purposes of municipal legislation in relation thereto.

Approved March 4, 1882.

458-1
S02-284
A01-78
31V-525
32V-479
487

P. L. 1882, p. 47.

Classification of cities for municipal legislation.

458-1
*03-292

1. That from and after the passage of this act, the classification of the cities of this state shall, for the purposes of municipal legislation in relation thereto, be as follows, viz., "cities of the first class," "cities of the second class," "cities of the third class," "cities of the fourth class."

Classes, how distinguished.

458-1
*99-283

2. That "cities of the first class" shall consist of all cities in this state that have, within their territorial limits, a population exceeding one hundred thousand inhabitants; that "cities of the second class" shall consist of cities in this state that have a population, within their territorial limits, of not less than twelve thousand nor more than one hundred thousand inhabitants; and that "cities of the third class" shall consist of all cities

in this state not embraced within either the first or second class as herein distinguished, except cities binding upon the Atlantic ocean, and being seaside or summer resorts; "cities of the fourth class" shall consist of the cities of this state binding upon the Atlantic ocean, and being seaside or summer resorts. (*a*)

Subsequent laws may refer to the classes herein designated.

3. That it shall be a sufficient classification of cities to which any law hereafter enacted shall apply, to refer in any such law to cities under the classification herein provided by the classification herein designated, and such law shall be construed to apply to and embrace all cities 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. (*b*)

Supplement.

Approved April 2, 1891. P. L. 1891, p. 306.

When census shall affect classification of cities.

4. SEC. 1. That whenever a census has been or shall be taken by national or state authority, the same shall take effect and be applicable to the cities enumerated in the act to which this is a supplement, ninety days after the official promulgation thereof. (*c*)

5. SEC. 2. [Amended by Sec. 6, *post*.]

An amendment to the act entitled "A supplement to an act entitled 'An act for the classification of cities in this state for the purposes of municipal legislation in relation thereto, approved March fourth, one thousand eight hundred and eighty-two,'" which supplement was approved April second, one thousand eight hundred and ninety-one.

Approved June 10, 1895. P. L. 1895, p. 792.

459-6
31V-135

Application of laws as cities pass from one class to another.

6. SEC. 1. That section two of the act to which this is an amendment shall be and the same is hereby amended so as to read as follows:

[That whenever any city has become, or shall hereafter become by reason of its population, a member of another class in accordance with the classification above referred to, the laws theretofore in force applicable to such city shall be deemed to be applicable and to have remained applicable thereto, except so far only as the governing body thereof, by ordinance, shall declare or have declared otherwise, or shall in some other manner have manifested an intention to be subject to the laws of the other class; all laws passed subsequently to the promulgation of the census which shows that a city contains such a population as will change its classification, shall be applicable to such city as a member of the class to which it shall then belong, except where repugnant to any law or laws in force in said city under its old classification and not by ordinance or official action as aforesaid declared inapplicable.]

(*a*) By population is meant population as determined by an official enumeration officially promulgated. *In re Sewer Assessment for Passaic*, 25 *Vr.* 156. Classification of municipal bodies upon the basis of their population at a given time, cannot be used as a means of designating particular cities to the exclusion of others that may acquire the same characteristics. *Bennett* v. *Trenton*, 26 *Vr.* 72. See *Duffy* v. *Brutton*, 18 *Vr.* 253.

(*b*) The office of above act is to provide a classification as a rule of construction for the convenience of municipal legislation. A statute framed in compliance with this act will be construed accordingly, and upon such a construction the question will arise whether the classification adopted is such in substance as to bring the statute within the category of general laws. *Warner* v. *Hoagland*, 22 *Vr.* 62. See *Calvo* v. *Westcott*, 26 *Vr.* 78. Population may be made the basis of classification in statutes relating to municipal bodies, but such a classification cannot be made the means of evading the constitutional interdict of local or special laws where the classification is plainly illusory. *Ib.* Officers of a city, appointed under laws valid and applicable to it as a city of a lower class, will not cease to be officers by the mere transition of the city to a higher class; they may perform the functions and exercise the powers pertaining to their offices until, under laws applicable to the class into which the city has passed, others take their places. *In re Sewer Assessment for Passaic*, 25 *Vr.* 156.

(*c*) See *In re Sewer Assessment for Passaic*, 25 *Vr.* 156.

II. Cities of the first class.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

An act prescribing the manner of payment of salaries or wages of officers and employes of cities of the first class.

P. L. 1883, p. 36.

Approved February 14, 1883.

Salaries, mode of payment.

7. SEC. 1. That the salaries or wages of the officers and employes of cities of the first class shall be paid by warrants drawn to the order of each of said officers or employes on the city treasurer and signed by the mayor or acting mayor of each of said cities, and in no other way.

Repealer.

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

An act fixing the salaries of and otherwise concerning the mayors of all "cities of the first class" that have a population within their territorial limits exceeding one hundred thousand inhabitants.

P. L. 1889, p. 314.

Approved April 19, 1889.

Governing body may fix salary of mayor.

9. SEC. 1. That in "cities of the first class" that have within their territorial limits a population exceeding one hundred thousand inhabitants, according to any census or enumeration by the United States, or by this state, the board of aldermen, common council or other governing body thereof, as the case may be, shall have power to fix the salary of the mayor of such city at not less than thirty-five hundred dollars, nor more than five thousand dollars per annum, and the money needed to execute this act, not already provided for in the current tax levy of any such city, shall be borrowed by temporary loan, and the amount thereof provided for and paid out of the next annual tax levy of any such city.

Mayors authorized to appoint clerks, &c.

10. SEC. 2. That the mayors of all cities to which this act shall apply shall each have power to appoint a clerk or secretary in his own office, to be paid at the rate of one hundred and twenty-five dollars per month, and may appoint an additional clerk, to be paid at the rate of seventy-five dollars per month, both to serve at the pleasure of the mayor in every such city.

Repealer.

11. 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.

An act in relation to the salary of the comptroller in certain cities of this state.

P. L. 1890, p. 52.

Passed March 5, 1890.

Additional salary allowed to city comptroller.

12. SEC. 1. That where, in any city of the first class in this state, the comptroller is or may be required to furnish certificates or searches showing the liens on property therein for municipal assessments and taxes, and no fees are allowed or paid to such officer for this service, and all such fees are paid into the city treasury, compensation in addition to the salary now provided for such officer shall be paid by such city, which shall not be less than fifteen hundred dollars nor more than two thousand dollars per annum, and the same shall be paid at the time and in the manner now provided by law for the payment of the salary of such officer.

Common council to fix amount thereof.

13. SEC. 2. That it shall be the duty of the common council or other governing body of such city to fix the amount of such compensation as herein provided.

An act concerning cities of the first class, and relating to the appointment and suspension of clerks and other employes in the departments of comptrollers or corresponding chief financial officers of such cities.

Approved February 24, 1891. P. L. 1891, p. 62.

City comptroller may appoint and remove his clerks.

14. SEC. 1. That in all cities of the first class of this state the comptroller or corresponding chief financial officer thereof shall have and possess the power and authority to appoint, suspend or remove all clerks and assistants employed in or about the business of his office or department; *provided, however*, that the appointment of the same shall be made with the consent of the board of finance of such city, or the finance committee of the common council thereof, in case there be no such board in such city.

Repealer.

15. SEC. 2. That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

An act concerning sinking fund commissioners in cities of the first class.

Approved March 18, 1891. P. L. 1891, p. 187.

Sinking fund commissioners, appointment and term of.

16. SEC. 1. That the commissioners of every sinking fund established by law in and for every city of the first class of this state shall be three suitable persons, and the mayor of said city, who shall also be a commissioner ex officio, who shall not all be members of the same political party, to be appointed by the mayor thereof for the term of three years; the first appointment shall be one for one year, one for two years, and one for three years from the date of their appointment, and thereafter one each year for three years in place of the one whose term then expires; any vacancy to be filled by the mayor for the unexpired term only; the sinking fund commission herein authorized shall be in place of, and be substituted for, and shall be invested with all the powers and duties of any commissioners of any sinking fund now established or authorized by law in and for any city, and the term of service for any such commissioner or commissioners serving in any city at the time this act goes into effect shall cease on the appointment of the sinking fund commission as herein authorized.

Repealer.

17. SEC. 2. That all acts or parts of acts, public, private, local, special or otherwise, inconsistent herewith, be and the same are hereby repealed, and this act shall take effect immediately.

An act concerning cities of the first class.

Approved April 16, 1891. P. L. 1891, p. 475.

Mayor may fill vacancy in office of alderman.

18. SEC. 1. That in any city of this state of the first class, the charter of which provides for a special election to fill a vacancy in the office of alderman, it shall not be necessary hereafter, if a vacancy in said office of alderman shall occur from any cause whatever to hold a special election to fill such vacancy, but the mayor of said city shall appoint a resident voter of the ward in which such vacancy occurs to hold said office until the election and qualification of a successor to such appointee, at the next succeeding charter election, and such appointee to fill a vacancy shall have and enjoy said office and be possessed of all the powers and liable to perform all the duties to the same extent as any other alderman of said city. (*a*)

Repealer.

19. SEC. 2. That all acts and parts of acts, general, special or local, inconsistent herewith are hereby repealed, and that this act shall take effect immediately.

(*a*) This act is unconstitutional because of its being special. *Parker* v. *City of Newark*, 28 *Vr.* 83.

An act relative to the salary of aldermen or members of the common council in certain cities.

P. L. 1891, p. 486.

Approved April 16, 1891.

Alderman required to serve without compensation.

20. SEC. 1. That where in any city of the first class the general legislative authority is now or hereafter may be vested in a board of aldermen or common council, the members of such board of aldermen or common council shall serve without compensation; *provided, however*, that this act shall only apply to members of such board of aldermen or common council hereafter to be elected.

Repealer.

21. SEC. 2. 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.

An act concerning assessments for local improvements in the cities of the first class, providing for the appointment of boards of commissioners to make all such assessments, defining the duties of such commissioners and fixing their compensation.

P. L. 1892, p. 255.

Approved March 24, 1892.

Commissioners to be appointed to assess damages and benefits for local improvements.

21 *a*. SEC. 1. That in the cities of the first class in this state all assessments of damages and benefits for local improvements made and to be made therein shall be computed, estimated and fixed by commissioners to be appointed as hereinafter provided; such commissioners shall be freeholders and resident in the city in and for which they are appointed, and shall, before they enter upon the duties of their office, take and subscribe an oath to faithfully and impartially discharge the duties imposed upon them according to the best of their skill and ability, which shall be filed in the office of the clerk of such city.

Manner of appointment, term and salary of commissioners.

21 *b*. SEC. 2. That such commissioners shall in every such city be appointed by the mayor thereof and shall hold office for the term of three years from the date of their appointment and until others are in like manner appointed to succeed them, and shall be paid an annual salary of one thousand dollars each, payable monthly out of the collections from assessments for local improvements, and said salaries shall be charged from time to time by said commissioners to and included in the costs and expenses of the various assessments made by them, having regard, so far as possible, to the amount of labor involved in making up each assessment.

Duties of commissioners.

21 *c*. SEC. 3. That it shall be the duty of such boards to estimate, compute, fix, determine and make all assessments for damages and benefits caused by any local improvement made or to be made therein, and all such commissioners shall in all respects be governed in making such assessments by the laws now or hereafter in force relating to and regulating the making of assessments for local improvements in such city.

Repealer.

21 *d*. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect on the fifteenth day of May, eighteen hundred and ninety-two.

An act concerning the compensation of the city collector of any city of the first class in this state.

P. L. 1893, p. 117.

Approved March 8, 1893.

Compensation of city collector.

22. SEC. 1. That the compensation of the city collector of any city of the first class in this state shall be fixed at such sum not exceeding five thousand dollars as the board of finance or board having control and custody of the finances of any such city shall determine.

Board having control authorized to borrow necessary amount.

23. SEC. 2. That any deficiency in appropriation necessary to comply with the provisions of this act shall be provided by the board of finances or board having control and custody of the finances of any such city as aforesaid, who are hereby authorized to borrow the necessary amount and to pledge the faith of the city for payment thereof to be met by an appropriation in the tax levy next succeeding, and annually thereafter an appropriation shall be inserted in the tax levy sufficient to cover said expenditure.

24. SEC. 3. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately. Repealer.

An act fixing the term of office of mayors in cities of the first class.

Approved March 10, 1893. P. L. 1893, p. 177.

25. SEC. 1. That every mayor hereafter elected in any city of the first class shall hold his office for a term of two years and until the qualification of his successor. Mayor's term of office.

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

An act to establish a law department in cities of the first class in this state, to provide for the appointment and duties of the law officers therein, and for their compensation and terms of office

Passed May 16, 1894. P. L. 1894, p. 385.

27. SEC. 1. That in each city of the first class in this state there shall be a law department which shall consist of the following officers: a city or corporation counsel, a city or corporation attorney, and an assistant city or corporation attorney; the city or corporation counsel and the city or corporation attorney shall be counselors-at-law of this state of good standing, and the assistant city or corporation attorney shall be an attorney-at-law of this state of good standing; all of said officers shall be appointed by the respective mayors of said cities on the fourth Tuesday in May, one thousand eight hundred and ninety-four, and on the fourth Tuesday of each second succeeding year thereafter; they shall serve for the term of two years, and until their successors shall have been appointed. Law department, how composed. By whom and when appointed.

28. SEC. 2. That the said law officers shall discharge the duties that now devolve upon any and all law officers in each of said cities respectively under such requirements and regulations as now provided by law, and that said officers shall perform all other duties which now devolve upon any law officer, city or corporation counsel, city or corporation attorney, or upon the counsel or attorney for any board or commission within the said city, except as herein otherwise provided. Duties of law officers prescribed.

29. SEC. 3. That the city or corporation counsel shall be the chief law officer of the city; he shall provide written opinions when required to the mayor and the various boards and departments of the city government when required, and be their adviser upon all questions arising in relation to their official duties, and he shall assist the city or corporation attorney in the trial or argument of any cause in which the city or any of the boards or officers may be a party, pertaining to the business of the city; it shall be the duty of the city or corporation attorney to draw and prepare all contracts in which the city is interested and ordered by any board or department of the city government to be approved by the city or corporation counsel, and to prosecute and defend any action in which the city is a party, or any of its boards or departments, or officers, in relation to the interests of the city, and to prepare all such causes for trial or argument, and perform such other duties as shall pertain to the office of city or corporation attorney; it shall be the duty of the assistant city or corporation attorney to aid generally in assisting the city or corporation attorney in the duties herein allotted to him, and perform such other work of the law department of the city as shall be assigned to him by the city or corporation counsel. Further duties of law officers.

30. SEC. 4. That on the third Monday in May, one thousand eight hundred and ninety-four, the offices of city or corporation counsel, corporation attorney, and assistant city or corporation attorney, the offices of the counsel and attorney of any board of works, board of street and water commissioners, the board of health, aqueduct board, the commissioners of adjustment, and the office of every other law officer of said city Present law offices vacated.

shall become vacant, and the terms of said officers shall then cease, although they may have been appointed for a longer term.

Vacancies shall be filled for unexpired term only.

31. SEC. 5. That any vacancy which may occur in the office of city or corporation counsel, city or corporation attorney, or assistant city or corporation attorney, after the first Tuesday after the third Monday in May, one thousand eight hundred and ninety-four, shall be filled by the mayor, but for the unexpired term only.

Salaries of law officers.

32. SEC. 6. That the city or corporation counsel so appointed shall receive an annual salary of not more than six thousand dollars, payable monthly, to be fixed by the mayor; that the city or corporation attorney shall receive an annual salary of not more than four thousand dollars, payable monthly, to be fixed by the mayor, and that the assistant city or corporation attorney shall receive an annual salary of not more than fifteen hundred dollars, payable monthly, to be fixed by the mayor; all of such salaries shall be paid by the board of finance or by that board of the city government having the control and management of the finances of said city, in the manner now or hereafter provided for the payment of the salaries of other city officers therein.

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Repealer.

33. SEC. 7. 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.

An act to enable the city clerk of cities of the first class in this state to designate a clerk in the office of city clerk to act as city clerk.

Approved March 18, 1895.

P. L. 1895, p. 330.

City clerk may designate a clerk to serve as acting clerk.

34. SEC. 1. That the city clerk of any city of the first class in this state shall be authorized to designate from the clerks in his office a clerk to act as acting city clerk during his absence or disability, which designation shall be made in writing and addressed to the board having the control of finances in said city, which designation shall be operative until the resumption of the work of the office by the city clerk.

Acting clerk may perform all the duties of the clerk.

35. SEC. 2. That such acting city clerk shall perform all the duties of the office of city clerk during such absence or disability of the city clerk, which said city clerk shall be responsible for the acts and doings of such clerk so designated as acting city clerk.

An act respecting cities of the first class and providing for filling certain vacancies in office therein.

Approved March 22, 1895.

P. L. 1895, p. 654.

Mayor may fill vacancies for unexpired term in certain cases.

36. SEC. 1. That in case a vacancy exists or shall hereafter exist in any city of the first class in this state in any office the sole power of appointment to which is by law vested in the mayor of such city, such mayor shall in like manner have power to fill such office for the unexpired term.

An act relating to vacancies in the office of alderman or common councilman, or in boards of aldermen or common councils in cities of the first class in this state.

Passed June 13, 1895.

P. L. 1895, p. 815.

Mayor to fill vacancy in board of aldermen or common council until next election.

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37. SEC. 1. That any vacancy or vacancies which may now or hereafter exist in the office of member of the board of aldermen or common council in any city of the first class in this state, whether the vacancy shall have occurred through the failure to hold an election in any ward or aldermanic district in the said city, or in the wards or aldermanic districts of such city, or through the death of any such officer, or from any cause whatever, shall be filled by the mayor of such city by appointment; and the person so appointed by such mayor as alderman, councilman or member of the board of aldermen or common council shall hold office until the next charter or municipal election, at which said municipal or charter election aldermen,

or members of the board of aldermen or common council shall be elected from the ward or aldermanic district or wards or aldermanic districts in which such vacancy or vacancies occurred or shall occur for the remainder of the said unexpired term or terms, and the aldermen or the members of the boards of aldermen or common council appointed as aforesaid, shall continue to perform the duties of aldermen and members of the common council until such time as the person so elected to fill said vacancies shall have been elected and shall have qualified.

38. SEC. 2. 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 take effect immediately. Repealer.

2. BOARD OF STREET AND WATER COMMISSIONERS.

An act concerning cities of the first class in this state, and constituting municipal boards of street and water commissioners therein, and defining the powers and duties of such municipal boards, and relating to the municipal affairs and departments of such cities, placed under the control and management of such boards, and providing for the maintenance of the same. (*a*)

Approved March 28, 1891. P. L. 1891, p. 249.

39. SEC. 1. That in all cities of the first class in this state, the mayors thereof respectively, within ten days after this act shall take effect, or shall become applicable to any city, shall appoint five suitable persons, residents of such city, to be known as street and water commissioners; the first five shall be appointed and their terms of office shall be as follows: one for the term of three years; two for the term of four years, and two for the term of five years, all from the date of their appointment hereunder, and at the expiration of the term of service of each of those commissioners, others shall be appointed in the place of those whose terms expire, in the same manner, for the term of five years, so that the term of service of all such commissioners under this act thereafter appointed shall be five years; any vacancy arising in the office of commissioner of such board shall be filled by appointment by the mayor of such city, for the unexpired term only; that the mayor of such city shall issue a commission to each of such commissioners, in accordance with their said appointment, and each of such commissioners shall devote such time and attention to the faithful performance of the duties of his office as the welfare of the public works and municipal departments and affairs under the government, control and management of such board, and the public interest therein may require, and no such commissioner shall accept or hold any other place of public trust or emolument within the elective franchise, nor any appointment to public office, unless he shall first resign his said office; and if he shall so accept such other office without having resigned his office of such commissioner, upon his acceptance of such place or appointment his office of commissioner shall thereupon become vacant; that the commissioners so appointed as aforesaid shall constitute and be called "the board of street and water commissioners" of—[the name of the city of the first class in and for which they are appointed]; that each of such commissioners within ten days after his said appointment, shall qualify by taking and subscribing, before an officer duly authorized by the laws of this state to administer oaths and affirmations, an oath or affirmation faithfully to discharge the duties of his office to the best of his skill and understanding, and within the time aforesaid shall give bond to such city in the sum of ten thousand dollars each, to be approved as to sufficiency by the mayor of such city, or the board having charge and control of the finances of the city in which they are appointed, for the faithful discharge of their official duties, which bonds shall be filed in the office of the comptroller of such city; that each of such commissioners shall be paid an annual salary of two thousand dollars,

Mayor to appoint board of street and water commissioners. 465-39 S96-214 S97-254 S98-491 32V-464 34V-635

Term of office.

Vacancy, how filled.

Duties of board.

Name of board.

To take oath and give bond.

Salary.

(*a*) The object of this statute is sufficiently expressed in the title. *In re Haynes*, 25 *Vr.* 6.

Power to make contracts.

payable monthly; that the said board of street and water commissioners of such city shall have full power, in addition to all other powers granted by law, in their discretion, in the corporate name and on behalf of such city, of making contracts and engagements, all of which shall be binding on such city, in reference to any purpose whatever connected with the exercise of the authority, powers and duties by this act conferred, or contemplated to be conferred, on said board, and of condemning, taking, purchasing, holding and conveying in the corporate name of such city any real estate which in the judgment of such board may become necessary or convenient for the public use or purposes or for the public works or municipal affairs, matters or things whatsoever, which by the provisions of this act are placed under the government, control, management or direction of such board of street and water commissioners, and all the acts and doings of such board within the scope of their authority or duty shall be obligatory upon and be in law considered as done by such city and under and by the corporate authority of the same; that the commissioners first appointed hereunder shall meet as a municipal board immediately after the taking and subscribing of the required oath or affirmation and the execution of their official bonds for the faithful performance of the duties of their office, and they shall immediately select one of their number to act as president of such board for the ensuing year, and thereafter they shall so select a president each year, and in case of a vacancy occurring at any time during the year the board shall fill the office for the rest of the year; that a majority of the whole number of the commissioners of such board shall be necessary to constitute a quorum for the transaction of business, and the acts of three members of such board shall be the acts of the board; that the president shall have the power to call special meetings of such board whenever he shall deem it expedient; that the board shall possess, and shall be deemed and taken to have, at all times, the sole right, power and authority to make, establish, publish, modify, amend, repeal and enforce resolutions and ordinances relating or in anywise appertaining to the public works, or municipal departments or affairs of such city, which by the provisions of this act are placed or intended to be placed under the government, control and management of such board of street and water commissioners and as the public interests therein may from time to time require, in the same manner and form not inconsistent with the provisions of this act, as may be possessed or done or enjoyed by the common council, board of aldermen or other governing body or board of such city at the time of the passage of this act or whenever the same becomes applicable to any such city, it being the intention hereby to require and authorize such board of street and water commissioners to proceed by ordinance or resolution, as the case may be, as may now or hereafter be required in each particular case, according to and by the laws governing such city; that the mayor of such city shall have the right to veto all the ordinances of such board of street and water commissioners, and also to veto all resolutions and actions thereof over which he now has or may hereafter acquire a right of veto by the laws governing such city, and a copy of every such ordinance, action or resolution, duly signed by the president of such board and certified by the clerk thereof, shall be furnished to the mayor of such city, and he shall have ten days in which to consider the same in each case, before signing or returning them to such board with his objections; the mayor shall have the power to veto any item or items contained in any ordinance or resolution appropriating money for any purpose, and to approve of the residue of such ordinance or resolution; any such board may, however, pass any ordinance, action or resolution, or vetoed item, notwithstanding the objections of the mayor, by an affirmative vote of four of the members thereof, at the time and in the manner now or hereafter provided by law in such city; *provided*, that any ordinances or resolutions in force in such city at the time this act shall take effect therein, relating or in anywise appertaining to the public works, or the municipal departments, or affairs of such city, which by the provisions of this act are placed or intended to be placed under the control, government and management of such board of street and water commis-

First meeting and president.

Quorum.

Special meetings.

Power and authority of board.

Right of mayor to veto.

May veto items of appropriations and approve residue.

Board may pass ordinance or resolution over veto by a vote of four members.

Proviso.

sioners, shall continue in force and be applicable to such board of street and water commissioners until such ordinances and resolutions shall be repealed, modified, re-enacted or superseded by other ordinances or resolutions passed or enacted by such board of street and water commissioners; that the commissioners of such board of street and water commissioners may make, establish, alter, modify or repeal such by-laws, rules and regulations, and pass such resolutions for the government of the proceedings of such board, or of its members, officers and employes, and the transaction of its business, as such board may deem proper and advisable; that immediately after the organization of such board, and the election of a president thereof, as aforesaid, such board, or a majority of the members thereof, may select and employ a regular counsel for such board of street and water commissioners, who shall be a counselor-at-law of this state of at least eight years' standing, and who shall hold his said office for the fixed term of five years, and until his successor is selected and qualified, and such legal counsel shall have full charge and direction of all the legal matters and business of such board, and he shall be paid a fixed compensation or salary of not less than three nor more than six thousand dollars per annum, payable monthly out of any moneys received by such board, or under its control; *provided, however*, that in all such cities where there is now a corporation counsel appointed by the mayor, required by law to advise all the departments of such city government, including the water department, or board thereof, then such regular counsel shall not be appointed by the said board of street and water commissioners, but the corporation counsel shall act as counsel for such board; that such board shall be fully authorized and empowered to select, appoint and employ, from time to time, a clerk of the board, a chief engineer, civil and mechanical engineers, superintendents, city or other surveyors, street commissioners or superintendents, inspectors, supervisors, officers, clerks and any other persons or employes, to aid said board in the execution of this act, and the discharge of the duties of the office of such commissioners, and the carrying out and performance of the work and labor of the public works or municipal departments or affairs of such city, which by the provisions of this act are placed or intended to be placed under the government, control and management of such board, or as may be required by law therein or thereabouts, and as the public interests therein may from time to time require or as such board may deem necessary and proper; and such board shall fix the compensation or salary to be paid such officers and employes, and the manner of payment thereof, within such limitation as to amount as may be now fixed by law in any such city; and may, in their discretion, require official and satisfactory bonds for the faithful performance of official duties to be made and executed by such officers and employes, or any of them, and they shall, in that case, take and subscribe an oath or affirmation faithfully to discharge the duties of their office; that such counsel, chief engineer, clerk of the board, civil and mechanical engineers, superintendents, city and other surveyors, street commissioners or superintendents, inspectors, supervisors, officers, clerks and any other officers, persons or employes, selected and appointed as aforesaid, shall be in lieu of, and be substituted for, and shall act and be recognized in place of, and shall in each case respectively be fully invested with all the rights, powers, duties, privileges and advantages of any city or corporation counsel, or city or corporation attorney, chief or other civil engineer, general or other superintendent, civil and mechanical engineers, superintendents, city or other surveyors, street or other commissioners, inspectors, clerks, secretaries, treasurers, cashiers, or other municipal officers, agents, servants or employes whatsoever now or then respectively existing or appointed, employed, or holding office or appointment in such city, or authorized by law to act in any such official capacity or office or employment aforesaid, on behalf of any such city, or in the municipal affairs, or under the corporate authority thereof, or under or by virtue of any general, special, local or private law of this state—in relation or appertaining to the subject-matters, public works and municipal affairs which by the provisions of this act are placed

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or intended to be placed under the government, control and management of such board of street and water commissioners hereinbefore provided for in such city. (*a*)

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Board substituted for and have authority of other boards, officers, common council, &c., respecting streets, sewers, water-supply, &c.

40. SEC. 2. That the board of said street and water commissioners herein provided for, in any city aforesaid, shall be substituted for and become vested with and shall perform all the powers, rights, duties and authority as are or may be by law vested in and imposed upon, or exercised by, the board of aldermen, common council or other governing body or board of such city, or of any public aqueduct or water board or department, or of any department, civil engineer, city surveyor, commissioner, street commissioner, office or officer, clerk, servant or employe or authority of any such city, having power to lay out, open, grade, alter, vacate or change the lines of streets, avenues, lanes, alleys or highways, or to pave, repave, repair, improve or clean streets, avenues, lanes, alleys, highways and sewers or drains, or to make any street, highway, or sewer constructions, connections, alterations, repairs or improvements, or having power to control and regulate the use and occupation of the streets, avenues and highways and sidewalks in such city, or having power to remove by contract or otherwise ashes, offal, garbage and other refuse matter and accumulations in dwellings and other buildings and premises in such city, or the control, operation, construction, repair, maintenance of public water works and the public water-supply and distribution, sale and use of water, and the collection of water rents and charges of such city, or having power and authority to construct, improve, repair, manage, maintain and control the public parks and places, and the public docks, wharves, bulkheads, bridges, baths, fountains or other structures, or the erection, construction, improvement, repair, maintenance, control and management of all public buildings, or real estate owned, rented, used or occupied by, or under the corporate authority of such city and not used exclusively for city hall, or public markets, hospital or poor and alms and reformatory purposes, and having power and authority to purchase in the corporate name of such city real and personal property for any and all the public purposes or works as aforesaid; *provided, however*, that the construction, furnishing and repairing of public school-houses, police and fire buildings, shall remain under the control of the board or boards now or hereafter entrusted with the same under the laws governing such city; that the office of aqueduct or water commissioner of any such city and the office or position of counsel, superintendent, treasurer, secretary, supervisor, civil or mechanical engineer, inspector and any other office or officer, clerk, servant or employe whatever of such aqueduct or water board or connected with any authority thereof, and any and every office or officer, clerk, agent or employe whatsoever connected with or under the employ of any street department or street commissioner or superintendent's office, or city surveyor or engineer's office or department, or of any department, office, officer or municipal authority whatever then existing in any such city, or in or under the corporate authorities thereof, having in whole or in part the government, control, management, regulation or supervision of streets and highways, sidewalks, crosswalks, sewers, docks, wharves, piers, bridges, public parks, baths, fountains, lamps, lights, or public places—are respectively hereby abolished, and the term or terms of office and employment of all such officials are hereby terminated, and all authority and power of each and every the same shall cease and determine immediately on the organization of such board of street and water commissioners, as hereinbefore provided, but the said board of street and water commissioners may continue in their employment temporarily all or any of the clerks, servants and subordinate employes of the various departments of the city governments by this act transferred to the control of said board, and all books, papers, maps, drawings, profiles, records, property, effects, matters and things whatsoever, used by or theretofore in the custody, charge or under control of any such municipal board, body, department, office, officer, clerk or

Proviso.

(*a*) This act is not in conflict with the constitutional clause which forbids the passing of an act which shall provide that any existing law or any part thereof shall be applicable, except by inserting it in such act. *In re Haynes*, 25 *Vt.* 6.

employe and appertaining to any purpose whatever connected with the exercise of the authority, powers and duties by this act conferred or contemplated to be conferred upon such board of street and water commissioners herein provided for and authorized in such city, shall at once be delivered to such board of street and water commissioners, or to the person or persons designated by such board to receive the same.

41. SEC. 3. [Amended by Secs. 72 and 95, *post.*]

42. SEC. 4. That the said board of street and water commissioners shall have power, in addition to all other powers granted by law to such board, in their discretion, to change the grade and so establish a new grade in whole or in part for any street, avenue, lane, alley, highway or public place, that is to be repaired or repaved as in this act authorized; and the cost of all such excavating or grading up or down, or filling in, to bring such street, avenue, lane, alley, highway or public place, or any part thereof up to the same grade so established, shall be borne by such city at large; said board shall have full power to adopt maps, grades and specifications for curbs along any such street, avenue, lane, alley, highway or public place, or part thereof, and for sidewalks, and may supply, set and reset such curbs and supply, grade, and lay and relay the sidewalks wherever needed to make them conform to the grade or specifications adopted for curbs or sidewalks in any such street, avenue, lane, alley, highway or public place, and to the new grade established for any such street, avenue, lane, alley, highway or public place, or curbs or sidewalks, if any have been so adopted or established; and the cost of all such improvements for curbs and sidewalks, and laying, setting and relaying or resetting, as the case may be, shall be assessed according to law upon the property benefited, and upon each piece or parcel of land, in proportion to the benefit received; but if the cost shall be more than the benefit received, then the excess of cost over benefit shall be borne by such city at large; and all assessments for improvements authorized by this act shall be made, levied and collected in form and manner as other assessments for similar improvements are made, levied and collected in any such city and with the same penalties for non-payment, and including the right on the part of the city to sell the property for such non-payment, and the said board shall have power to require any property-owner or property-owners to alter, repair, lay or relay, set or reset, with curbstones or flagstones, or other material, and to supply and lay or set new curb or sidewalk, all in accordance with the specifications adopted for any such curb or sidewalk, in front of the property of any such owner or owners; and if any such property-owner or owners shall neglect or refuse to make the repairs required by the board of street and water commissioners, as herein authorized, for four weeks after notice shall have been served upon such owner or owners, or mailed to the last-known post-office address of such owner or owners, or of his or their known agents in charge of such property, then the board may make such repairs and assess the expense thereof upon such property, to be collected as other assessments are collected in any such city and with the same penalties for non-payment as are authorized by law for any such city in cases of street or sewer improvements and assessments therefor, including the power to sell the property for non-payment; that in order to provide a principal fund in such city to enable said board of street and water commissioners to repair and reset curbstone and sidewalks or flagstone in front of the property of any owner or owners so refusing after notice, the sum of ten thousand dollars shall be appropriated and set aside within four months from the date of the approval of this act, or after this act becomes applicable, out of the license fees received in such city for permission to sell spirituous and malt liquors in such city by the board having charge and control of the finances in such city; that said fund and all moneys collected by said city from assessments made under this section shall be kept apart and used from time to time by said board of street and water commissioners for the purpose of repairing and resetting curbstones and sidewalks and flagstones in the streets of said city, and for no other purpose.

Grade of streets, &c., may be changed.

Cost, how paid.

469-42
32V-483

Excess of cost over benefit to be borne by city.

Manner of assessment and penalty for non-payment.

If property-owners refuse to make repairs, board to do so at their expense.

Appropriation out of license money.

470-43
32V-483

Repairs to streets may be paid for out of license moneys.

43. SEC. 5. That the board of street and water commissioners herein provided for shall have power, in their discretion, to repave, repair, or improve, at public expense, any part of any street, lane, alley, avenue or public place already paved or that has been paved, to be paid for out of the funds raised by the issue of licenses for the sale of spirituous or malt liquors heretofore appropriated under existing laws for that purpose in such city, or which may hereafter be appropriated for that purpose in any such city under the authority conferred by this act.

44. SEC. 6. [Amended by Sec. 76, *post.*]

In making contracts, the contractor shall give bond.

45. SEC. 7. That whenever in any such city the board of street and water commissioners provided for in this act, shall make any contract for opening grading, improving, paving or repairing any street, avenue, lane, alley, highway or public place, or the construction or repair of any sewer or drain, or for the construction or laying of any aqueduct or water main or pipe, or the construction, building or repairing of any reservoir, park, dock, basin, bulkhead, bridge, pump, pumping apparatus, boilers, chimney, building, machinery or other structure, or for the use or occupation of any street or sidewalk, or the cleaning of streets, avenues and highways, sidewalks and public places; or the collection and removal of ashes, offal, garbage and other refuse matter from dwellings, buildings and other premises in such city, or the construction or improvement of any public work, matter or thing, or for the purchase of real or personal property above the sum of five hundred dollars, or for any other purpose, for the faithful execution and performance of which contract or agreement the contractor shall be required by such board to give bond or bonds, such bond or bonds shall first be approved as to sufficiency by the board, and as to form by the counsel of such board of street and water commissioners of such city as provided for in this act, and no contract shall be binding upon such city, or become effective or operative, until such bond or bonds are so approved by such board and counsel; the president of such board shall have power to examine the proposed bondsmen under oath, if he shall so desire, or shall be so instructed by such board, but such board shall not be bound by any statement that may be made by such proposed bondsmen, but shall have full and absolute discretion in the whole matter, and this provision shall be referred to in any advertisement inviting bids for any such public work, and all such contracts or agreements made by such board shall immediately after their execution be filed in the office of the comptroller of such city, and a true copy thereof retained and filed in the office of such board of street and water commissioners.

Commissioners to certify cost or expense of work or improvement.

46. SEC. 8. That upon the completion of any public work or improvement, the cost or any part of the cost whereof is required to be assessed in whole or in part upon the property or real estate benefited thereby, such board of street and water commissioners of such city shall immediately certify to the board of commissioners of assessment, common council or other board or body to such city, now or hereafter charged by law with the making of such assessment, the cost or expense of such public work or improvement, and shall prepare and furnish the required maps, specifications and other data pertaining to such public work or improvement, and certify the same to the board or authority so charged, as aforesaid, with the duty of making such assessment, and the latter shall thereupon proceed to make the assessment for the cost and expense of such public work or improvement as now or hereafter required by law in such city.

Board to carry out all contracts heretofore made.

47. SEC. 9. That such board of street and water commissioners, shall have full power and authority, in addition to all other powers granted by law, to fulfill, perform and carry out according to law, any and all contracts, agreements and obligations theretofore lawfully made and entered into by any governing body or board, department or municipal authority of any such city, in the name of such city or of any municipal authority therein or thereof regarding the subject-matters contained in this act, and hereby transferred or transmitted to the government, control, management and direction of such board of street and water commissioners; and no

suit or proceeding by or against any such city, and no proceeding or application for any public improvement, shall abate or be discontinued by reason of any provision in this act contained, but shall proceed and continue according to law, and not inconsistent with the provisions of this act, the proper amendments being made if necessary.

No suit or proceeding to be abated by reason of this act.

48. SEC. 10. That the said board of street and water commissioners of such city, in addition to all other powers or authority granted by law, and in lieu and place of any common council, board of aldermen, or other governing body or board or corporate authority of such city, shall have, exclusive of all other boards, departments and officers of such city, all the power and authority over the streets, avenues, lanes, alleys, roads, highways and sidewalks or public ways along the same, or in such city, and in all matters and things in any wise appertaining to the use or occupation thereof or of any part of the same now or hereafter possessed by any board, department or officer of such city, and all other matters the power and jurisdiction over which is transferred by this act to said board of street and water commissioners.

Board to have exclusive power and authority over streets, avenues, &c.

49. SEC. 11. That the said board of street and water commissioners, by this act authorized, shall have the entire control and full authority to provide for public lighting, and shall light all streets, avenues, lanes, alleys and public places in any such city, and all appropriations for that purpose shall be made to said board, and any and all appropriations for that purpose now existing in any such city shall be turned over to said board for the current year on the books of the comptroller or other officer having charge of that matter in any such city, and in the matter of public lighting said board of street and water commissioners shall be substituted for and shall be in place of any board or authority in any such city heretofore charged with the duty of lighting the streets, avenues, lanes, alleys and public places in such city, and said board in every such city is hereby invested with the exclusive power and charged with the duty of making such contract or contracts or other arrangements for lighting the streets, avenues, lanes, alleys and public places in such city and for such term or terms not exceeding five years, as in the judgment of said board shall be deemed for the best interests of the city, with the consent of the mayor thereof, and the board or authority in any such city having the power and charged with the duty of making and adopting the annual tax levy or tax ordinance of such city, shall appropriate the amount necessary each year to pay the cost of such lighting or the fulfillment of any such contract or contracts, and any property, matter or thing now in the possession of any board or authority in any such city and used for public lighting or for the repairing or inspection of lamps, shall be by such board or authority immediately turned over to and delivered to the board of street and water commissioners by this act authorized for any such city, on the demand of such board or of any person authorized by such board to demand and receive them.

Board to have entire control of public lighting of streets, &c.

50. SEC. 12. That said board of street and water commissioners of such city shall also have the sole power, in the place and stead of any common council, board of aldermen or other corporate authority of such city to pass, alter or repeal ordinances to take effect within the said city for the following purposes:

Board may pass ordinances.

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I. To regulate and control the running of locomotive engines and railroad cars, through and across the streets and public places;

To regulate the running of engines and cars.

II. To regulate and control the use of streets and public places by foot passengers, vehicles, railways and engines;

The use of streets by vehicles, railways, &c.

III. To regulate and control the crossing of the streets of such city at grade or otherwise by steam railroad tracks;

The crossing of streets by railroad tracks.

IV. To grant franchises and locations to street railway companies for the operation of street railways in such city, subject, however, to all limitations contained in the general laws of the state relative thereto;

To grant franchises to street railway companies.

V. To regulate and control the use and occupation of the streets and public places by awnings, posts, poles, bay windows, signs, private lamps and similar encroachments;

To regulate the occupation of streets by awnings, poles, &c.

To prescribe penalties. Proviso.

VI. To prescribe the penalties to be enforced in such city for the violation of any ordinance authorized by this act; *provided always*, that each and every ordinance shall be enacted, passed and published in the manner prescribed in such city by its charter or otherwise, for the enactment, passage and publication of ordinances by the common council or board of aldermen thereof, except as otherwise provided in this act.

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34V-635

Power vested in other boards to be placed in board of street and water commissioners.

51. SEC. 13. That every municipal, corporate and official power and duty of every kind in relation to the subject-matters contained in this act, which at the time this act shall take effect in any such city of the first class, is vested or existing, in any board of aldermen, common council or other governing body or board, or in any public aqueduct or water board, or in any office or officer, board, body, department, clerk, employe, or authority in any such city, shall be performed by the board of street and water commissioners in this act provided for, and such board, in the exercise of such powers, authority and duties, shall be substituted for any municipal board, department, office or officer or authority then exercising or performing any such powers, duties or authority in such city, and the powers, duties and authority aforesaid of the latter shall cease, determine and end as herein provided.

All consistent laws in force to apply to such board.

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34V-101

52. SEC. 14. That all laws or parts of laws, general, special, local or private, in force in any such city of the first class aforesaid, whenever this act may take effect and become operative therein, and relating to the subject-matters contained in or contemplated by the provisions of this act, and consistent with its provisions, shall apply to such board of street and water commissioners of such city, and such board, in such matters, shall be solely vested with all the powers and authority, rights and duties which are or may be at the date of the organization of such board, by law vested in and conferred and imposed upon, or existing in any board of aldermen, common council or other governing board or body, or of any public aqueduct or water board or municipal department, office, officer or authority of any such city, and such law or laws, or parts thereof as aforesaid, hereby are continued in force, and are made applicable to such board of street and water commissioners provided for in this act, except so far as the provisions of the same may conflict with or be not consistent with the provisions and intent of this act; and such board of street and water commissioners hereby intended to be substituted and empowered as aforesaid, shall in general be fully authorized and absolutely empowered to do any other act or thing necessary or convenient for the fulfilling and carrying out and accomplishing the purposes of this act.

Board to do any act necessary for carrying out this act.

Removal of member of board from office.

53. SEC. 15. That any commissioner of such board of street and water commissioners, hereinbefore provided for, may be removed from office by the mayor of such city for good cause, and after opportunity to be heard, subject, however, before such removal shall take effect, to the approval of the governor of the state, expressed in writing; the said mayor in any such case shall communicate to the governor, in writing, his reasons for such removal, and no commissioner so removed shall be again appointed to the same office during the period of time for which such commissioner was previously appointed.

Board to make estimate of necessary expenses of city for each year and certify same to financial authorities.

54. SEC. 16. That between the first day of March and the first of July in each year, the board of street and water commissioners in each city hereinbefore provided for, when requested by the board having charge of the finances of such city, shall estimate in detail the current or necessary expenses of the various municipal departments, matters and things under the government, control, management and maintenance of such board for the year, as other boards are required in such city, and such board shall transmit such detailed estimate or estimates to the board having charge or control of the finances in such city, and it shall be the duty of such financial board to cause such sums as may in their judgment be necessary for the current and necessary expenses of such board of street and water commissioners for the year for which such estimate is made, to be assessed and raised by making provision therefor in the tax ordinance or budget of the year; *provided, however*, that the total amount so to be appropriated, assessed and raised for such board of street

Expenses to be raised by tax.

Proviso.

and water commissioners shall in no year be less than the amount devoted to all such purposes in such city for the fiscal year ending next before the passage and approval of this act; nor shall such appropriation ever bear a smaller proportion to the total amount appropriated from all sources for all municipal purposes other than appropriations for interest and sinking fund accounts, in any year than the amount appropriated for all the purposes vested in said board by this act for the fiscal year next before the passage and approval of this act bore to the total amount appropriated from all sources for all municipal purposes except interest and sinking fund accounts in that year; *and provided, further*, that any special appropriation now authorized by law in any such city for the extension of water mains shall continue to be appropriated and paid over to the said board of street and water commissioners for said purposes over and above the minimum appropriation hereinabove provided for; *and provided, further*, that such board of street and water commissioners shall not make any expenditure or incur any indebtedness exceeding the amount so appropriated and raised, except the amount received by such board from all sources from the various public works, departments, sewers, streets or other sources of public revenue of such city, under the government, control and management of such board as aforesaid, or on account of water rents, charges and penalties, and after first deducting therefrom the amount of payment, disbursements and expenses required by law to be first paid out of any revenue or receipts received from the sale and distribution of water from the public water-supply of any such city, and by this act transferred and placed under the sole control, management and government of such board of street and water commissioners.

Proviso.

Proviso.

55. SEC. 17. That it shall be the duty of the comptroller or auditor, as the case may be, of such city having charge or control of the accounts of such city, to credit the board of street and water commissioners of such city with the amounts of the estimates so appropriated to such board in any tax levy, budget or ordinance, and thereafter the same shall be disbursed and paid by the financial officers of such city in the same manner as the expenses of other subordinate boards are paid in such city.

Comptroller or auditor to credit street and water commissioners with amounts of estimates appropriated.

56. SEC. 18. That upon the organization of the said board of street and water commissioners herein provided for in any such city, all the unexpended appropriations or moneys theretofore made or received by municipal or corporate authority of such city, or by any board, department or official thereof, and at that time under the control or in the custody of the same, for or on account of or to the credit of such board, department or official on the books of such city or any department or official thereof, for the purposes of constructions, erections, improvements, repairs, or the support, maintenance or expenses of the public works or municipal departments or affairs of such city, by the provisions of this act transferred, committed or placed under the management, control or government of such board of street and water commissioners of such city herein authorized, shall thereupon immediately become subject to the sole and absolute control and power and disbursement of such board of street and water commissioners, and shall thereafter be expended only by authority of such board for the purposes for which such unexpended balances of appropriations or receipts were assessed, collected or received by such city or the municipal authorities thereof, and the same shall be paid out by such city or its municipal authorities upon the warrants of such board of street and water commissioners in the manner and form hereinbefore provided.

Appropriations to be under the control of said commissioners.

57. SEC. 19. That such board of street and water commissioners shall be invested with the same authority and power to negotiate loans and borrow money, and issue the obligations or notes of such street and water commissioners therefor, and with like legal liability for payment on the part of such city, as is or may be now authorized by law and vested in any public aqueduct or water board or board of street and water commissioners of such city; and such board of street and water commissioners herein authorized shall succeed to and exercise all the legal powers and authority

Invested with power to borrow money and issue obligations therefor.

in monetary matters in this section mentioned, as are or could then be lawfully exercised by such public aqueduct or water board or board of street and water commissioners of such city as aforesaid, and not otherwise.

Board to keep books of account and make yearly reports.

58. SEC. 20. That the said board of street and water commissioners shall keep full and regular books of account, and books for recording the whole of their official proceedings, and of the different departments thereof, and shall cause to be kept full and accurate records of all its transactions; such books and records shall be opened to the examination of any person or persons appointed for that purpose by the mayor and common council or governing board or body of such city; and said board of street and water commissioners shall, at the close of each fiscal year of such city, prepare and make a detailed report to the board of aldermen, common council, or the governing board or body of such city, showing the condition of all the public works and property of such city, under the government, control and management of such board, and all receipts and expenditures on account of the same or in connection with such board, and give such other information to such board of aldermen, common council, board of finance or governing board or body, or to the mayor of such city, in relation to the municipal affairs under the government, control and management of such board of street and water commissioners, as any such municipal corporate authority shall require.

Board to designate newspapers for publication of minutes.

59. SEC. 21. That said board of street and water commissioners shall have power, with the consent of the mayor, and not otherwise, in case there shall be no official newspapers in such city required by law to be designated for the publication of the minutes and proceedings of the various boards thereof, to designate and determine from time to time which of the newspapers published in such city shall be the official paper or papers of said board, and in the same manner to fix the compensation to be paid by the city for the services rendered by said paper or papers, and thereafter said paper or papers shall publish all the minutes and proceedings of such board, and all the ordinances thereof, and all official notices relative to public improvements, and all other works and matters entrusted to the control and management of said board, and all notices relative to assessments to be made therefor.

When acts of board required to have concurrence of other municipal authorities.

60. SEC. 22. That whenever there shall now or hereafter exist in any city of the first class any limitation on the powers transferred by this act to said board of street and water commissioners, by requiring a concurrence of any separate board or municipal officer other than said board of common council, board of aldermen, board of street and water commissioners, or street commissioner, that this act shall not be construed as dispensing with such concurrence, but no concurrence of any board of common council, board of aldermen, board of street and water commissioners, or street commissioner, shall be necessary in any case under this act in reference to any of the powers of said boards which are under this act transferred to said board of street and water commissioners; *provided*, that said board of street and water commissioners shall not enter into any contract or agreement for a new or other supply of water for the use of the inhabitants of such city until the same shall have been concurred in by the board having charge and control of the finances of such city, and been approved by the mayor thereof.

Proviso.

One board only in one city.

61. SEC. 23. That no more than one board of street and water commissioners shall at any time be established in any city of this state.

One unconstitutional section not to affect another.

62. SEC. 24. That in case, for any reason, any section or provision of this act shall be questioned in any court, or shall be held to be unconstitutional or invalid, the same shall not affect any other section or provision of this act.

Special term of supreme court to be held to determine title to office if action is commenced.

63. SEC. 25. That whenever there shall be instituted or commenced any action or proceeding, at law or otherwise, to try or determine or affect the title to office or the powers, privileges or rights of any person appointed under the provisions of this act or to try or determine or otherwise affect the duties, rights, powers or privileges under this act of the mayor of any city of the first class in this state, or when any dispute or controversy shall

arise concerning the rights or title of any person appointed to an office under the provisions of this act, the chief justice of the supreme court shall upon application being made to him for that purpose by any mayor, appoint a special term of said supreme court to be held within thirty days of such application for the hearing and determining of such action or proceeding or dispute or controversy, and such action or proceeding or dispute or controversy shall be heard and determined at such special term; the fact that any such dispute or controversy exists may be brought to the attention of the chief justice by the petition or complaint of any such mayor.

Duties of chief justice as to such special term.

64. SEC. 26. That the chief justice of the supreme court, upon application being made to him for the appointment of a special term as aforesaid, shall fix the time within which the questions to be decided shall be prepared for submission of said special term, and shall make such orders as may be necessary to bring into court all persons claiming any right, title or interest to or in any office mentioned in this act; all proceedings under this and the preceding section of this act, shall be had in a summary manner, in order that the issues involved shall be determined as early as possible, and all pleadings or papers shall be filed within such time as the chief justice shall prescribe; upon application being made for the appointment of a special term as aforesaid, the chief justice shall direct that any person claiming the right to hold, otherwise than by virtue of an appointment by the mayor of such city, any office which, by the terms of this act, is directed to be filled by appointment by the mayor of such city, shall be made a party to the action or proceeding in which such application is made, and the right of such person to such office shall be tried and determined at such special term; at the time of the appointment of such special term, the chief justice shall direct that any person claiming to hold any office in any such city, affected by the provisions of this act, otherwise than by the appointment of the mayor as aforesaid, shall file in such action or proceeding a paper or pleading, setting out his claim of title or right to office, and the court shall determine, at such special term, whether any such person is entitled to hold the office which he claims; the chief justice shall prescribe the manner in which any person or persons may be made parties to any such action or proceeding, and direct the manner and time of service of all rules or orders, or other papers, which service may be by publication or otherwise; upon application being made to him as aforesaid, the chief justice shall make such orders as he may deem proper, concerning the taking of testimony, and shall make such further orders or rules concerning such action or proceeding, the papers and pleadings therein and the conduct thereof, as shall be necessary to have the same heard and determined at the special term of the supreme court appointed as aforesaid.

Time for filing pleadings and proceedings.

Supplement.

Approved March 17, 1892. P. L. 1892, p. 130.

65. SEC. 1. [Superseded by Sec. 74, *post*.]

Board may make contracts for lighting.

66. SEC. 2. That the board of street and water commissioners in such cities may, if they deem it for the best interests of the city to so do, enter into a contract or contracts for the lighting of the streets, avenues, lanes, alleys and other public places and buildings in such cities for a time not exceeding ten years.

Repealer.

67. SEC. 3. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Supplement.

Approved March 17, 1892. P. L. 1892, p. 143.

Issue of temporary loan certificates or bonds for the opening of streets, authorized in certain cases.

68. SEC. 1. That so long as the bonded debt of any city mentioned and described in the act to which this act is a further supplement does not exceed fifteen per centum of the assessed value of the real and personal property therein, as shown by the records of said city, it shall be the duty of the

common council or other governing body thereof, upon the request of the board of street and water commissioners of such city, to issue temporary loan certificates or bonds for any sum not exceeding one hundred thousand dollars, and to negotiate the same at the best price allowable, and to place the proceeds of such certificates or bonds in the city treasury of such city, as part of a capital fund to be used exclusively, together with all benefit assessments made and collected for such improvements, for the opening of streets in such city, and that so much of such capital fund so to be raised as aforesaid as the board of street and water commissioners of such city shall from time to time determine to use for that purpose may be applied to the opening of streets in such city, and such board shall be fully empowered, by a unanimous vote of its members, to open any street or highway, or part thereof, in such city, without any petition or consent therefor; proceeding in all things as required by law for street openings in such city, except as hereinafter otherwise provided.

Assessments, how made and collected, &c.

69. SEC. 2. That all assessments for benefits from such street opening improvements shall be made, levied, collected and be a first lien upon the lands and real estate specially benefited thereby, in conformity with the provisions of existing law in force in such city with respect thereto; and the moneys collected therefrom shall be paid into said fund and expended solely for street openings, as such board of street and water commissioners of such city shall deem judicious.

Bonds issued for what term and how paid.

70. SEC. 3. That bonds or certificates of indebtedness shall in no case be issued for a longer period than twenty years; and it shall be the duty of the common council of such city to provide, in the annual tax levy, for the interest to become due thereon, and also a sinking fund, of not less than three per centum annually, to pay the principal of such bonds or certificates when due.

Repealer.

71. SEC. 4. That all acts and parts of acts, general, local or specific, inconsistent with the provisions of this act, be and the same are hereby repealed.

Amendatory act.

P. L. 1892, p. 236.

Approved March 24, 1892.

72. SEC. 1. [This section, amending Sec. 41, *ante*, is amended by Sec. 95, *post*.]

Repealer.

73. 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.

Supplement.

P. L. 1892, p. 427.

Approved April 8, 1892.

Committees of investigation of any board of street and water commissioners shall have power to examine witnesses under oath.

74. SEC. 1. That whenever the board of street and water commissioners of any city of the first class within this state shall have appointed a committee of members of their body upon any subject or matter within the jurisdiction or connected with the municipal affairs of said board of street and water commissioners, or to examine any officer or official of such city, or member of said board in relation to the discharge of official duties or conduct, or concerning the possession or dispossession of any property belonging to such city, or to inspect or examine any book of account, voucher or document in possession or under the control of such officer or official, relating to the affairs or interest of such city, or in any investigation connected with any public work or improvement, such committee of such board is hereby authorized to issue a subpœna ad testificandum, or subpœna duces tecum, to any person within this state, to appear before them to give testimony or information required or desired for the purposes above mentioned; and any member of such committee is hereby authorized to administer oaths to such witnesses as may appear or be brought before him; the subpœnas herein provided for may be served by any police officer or constable of such city; and in case any person summoned as aforesaid shall refuse to obey such subpœna, or to give testimony, or to answer questions as required, or to produce any books, papers or documents as required,

any justice of the supreme court of this state may upon application made to him and upon proof being made of such refusal, make an order awarding process of subpœna or subpœna duces tecum out of the said court, for such witness to appear and testify before such committee, and may make an order or orders that any party give testimony or answer questions as required, and to produce books, papers or documents as required, and upon filing such order in the clerk's office of the supreme court, it shall be the duty of the said clerk, under the seal of said court, to issue process of subpœna to appear before said committee at a time and place named therein, and so from day to day until the examination of such person shall be completed; and said subpœna may contain a direction that such witness bring with him to such examination any books, papers or documents therein mentioned, and it shall also be the duty of said clerk to issue under the seal of said court, such other or further orders in reference to the examination, appearance, production of books, papers or documents before said committee as said justice shall direct; and in case any person so summoned by subpœna issued by said clerk as aforesaid, shall refuse to obey such subpœna, or any direction therein, or to give testimony, or to answer questions as required, or to produce any books, papers or documents as required; or in case any person shall refuse to obey any order made by said justice as aforesaid, it shall be lawful for such committee upon affidavits proving the facts to apply to such justice of the supreme court for an attachment against such person as for a contempt; and it shall be duty for such justice to hear such application, and if satisfactory proof is made of such refusal, to issue an attachment, directed to any constable or police officer of such city, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and the said justice shall have power to enforce, by imprisonment in the county jail, obedience to such subpœna, and the answering of any question that may be proper, or the production of any book, paper or document that the witness would be compelled to produce in a court of law, and also to compel such witness to pay the cost of said proceeding, to be taxed by the said justice; and any person who shall willfully and corruptly testify falsely to any material matter upon oath or affirmation administered by any member of such committee, upon such investigation or inquiry, shall upon conviction thereof, be subject to the penalties of perjury.

Witnesses may be required to produce books, papers, &c.

Penalty.

75. SEC. 2. 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.

Supplement.

Approved March 9, 1893. P. L. 1893, p. 164.

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76. SEC. 1. That section six of the act to which this is a supplement [see Sec. 44, *ante*] be amended so as to read as follows, viz.:

[That it shall be lawful for that board of the city government having charge of the finances thereof, to instruct the city treasurer and city comptroller in any city of the first class to set aside and keep apart out of the license fees received in such city for licenses to sell spirituous or malt liquors, or to keep restaurants or hotels, one-half thereof for the repaving, repairing, and improving of paved streets and public places in such city, whenever in the judgment of such board there shall not be sufficient funds otherwise provided for that purpose, and said moneys when so set apart shall be disbursed, applied and expended for such purpose by said board of street and water commissioners, exclusive of any other board or authority whatever, and for no other purpose.]

One-half of license fees to be set aside for repaving, &c.

77. SEC. 2. That the provisions of this act shall apply to any moneys received from license fees in any city during the current year of the granting of such licenses, and the same shall be applied to the payment of any of said work or labor or materials furnished for such work already done or to be done, or that may be contracted for during the current year of the granting of such licenses.

Applies to moneys received during current year of granting licenses.

78. SEC. 3. [Amended by Sec. 89, *post.*]

Repealer.

79. 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.

P. L. 1894, p. 524.

Passed May 25, 1894.

Terms of present board ended.

80. SEC. 1. That the terms of office of the members of every board of street and water commissioners heretofore appointed under the provisions of the act to which this is a supplement shall end and be determined immediately upon the passage of this act, notwithstanding that such members may have been appointed for a longer term.

Mayors shall appoint new boards to serve until successors are elected.

81. SEC. 2. That within five days from the passage of this act the mayor of each city of the first class in this state shall appoint from the citizens of such city, five persons, who shall, immediately upon their appointment and qualification, constitute the board of street and water commissioners for their respective cities until the first Monday in May, one thousand eight hundred and ninety-five, and until their successors shall have been elected as hereinafter provided and shall have qualified.

Authority, powers, &c., of new boards.

82. SEC. 3. That the boards of street and water commissioners of cities of the first class, as constituted under the second section of this act, shall be substituted for such boards as now constituted, and shall be vested with all the authority, powers and rights now vested in such boards of street and water commissioners, and perform all duties now imposed upon such boards.

Terms for which members shall hereafter be elected.

83. SEC. 4. That at the next municipal or charter election to be held in each city of the first class there shall be elected five members of the board of street and water commissioners for said city, two of whom shall be elected for the term of one year, two for the term of two years, and one for the term of three years, and that at each municipal or charter election thereafter there shall be elected a member or members of the board of street and water commissioners, to succeed the member or members whose term then expires, for the term of three years.

What the ballots shall contain.

84. SEC. 5. That upon the ballots to be used at the municipal or charter election to be held in such cities in the year one thousand eight hundred and ninety-five, the designation of the office to be filled shall be as follows: "for members of board of street and water commissioners for term of one year;" "for members of board of street and water commissioners for term of two years;" "for member of board of street and water commissioners for term of three years," and that at each municipal or charter election thereafter the designation of the office to be filled shall be as follows: "for member of board of street and water commissioners," or "for members of board of street and water commissioners."

Newly-appointed boards shall organize immediately.

85. SEC. 6. That the members of the board of street and water commissioners appointed pursuant to the provisions of the second section of this act, shall organize in their respective cities as boards of street and water commissioners, immediately upon their appointment or as soon thereafter as they shall have been qualified, and that in each succeeding year said boards shall organize on the first Monday in May.

Mayor shall have power to remove for cause.

86. SEC. 7. That the mayor of each city of the first class shall have the power to remove from office for cause, and after opportunity to be heard, any member of the board of street and water commissioners of such city.

Vacancies shall be filled for unexpired term.

87. SEC. 8. That whenever a vacancy shall happen in the office of member of the board of street and water commissioners otherwise than by expiration of the term of a member, such vacancy shall be filled by the mayor of the city in which it happens by the appointment of a qualified voter, resident in such city, who shall hold office for the unexpired term and until his successor is elected and shall have qualified.

Repealer.

88. 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 shall take effect immediately.

An act to amend an act entitled "A supplement to an act entitled 'An act concerning cities of the first class in this state and constituting municipal boards of street and water commissioners therein, and defining the powers and duties of such municipal boards and relating to the municipal affairs and departments of such cities placed under the control and management of such boards and providing for the maintenance of the same,' approved March twenty-eighth, one thousand eight hundred and ninety-one," which supplement was approved March ninth, one thousand eight hundred and ninety-three.

Approved March 5, 1895. P. L. 1895, p. 151.

89. SEC. 1. That section three [see Sec. 78, *ante*] of an act entitled "A supplement to an act entitled 'An act concerning cities of the first class in this state and constituting municipal boards of street and water commissioners therein, and defining the powers and duties of such municipal boards and relating to the municipal affairs and departments of such cities placed under the control and management of such boards, and providing for the maintenance of the same,' approved March twenty-eighth, one thousand eight hundred and ninety-one," which supplement was approved March ninth, one thousand eight hundred and ninety-three, be amended so as to read as follows:

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[That said board of street and water commissioners shall have power by a unanimous vote, from time to time, out of said funds when so set aside, to cause any part of a main thoroughfare in such city to be improved or paved or both, although the same may not have theretofore been paved, and also by such vote to construct and maintain out of said funds a proper stairway and footpath upon any lands, owned or controlled by said city, leading from one street to another street in such city, upon a grade exceeding ten feet in the hundred.]

Board may improve main thoroughfare, &c.

Supplement.

Approved March 22, 1895. P. L. 1895, p. 614.

90. SEC. 1. That the board of street and water commissioners in cities of the first class in this state shall have full power to construct and build in such cities at one time and as one improvement sewers or drains in two or more streets or highways, avenues or other public places, provided such sewers or drains so constructed have a common outlet or empty either directly or through each other into the same sewer.

Board may construct sewers and drains.

91. SEC. 2. That in advertising for bids or sealed proposals for the building and constructing of such sewers or drains, the board of street and water commissioners may in its discretion ask for bids or receive proposals, either for the work as a whole or for the work in such sections or parts as to it may seem proper and for the best interests of the city.

Proposals may be received for a part or the whole of the work.

92. SEC. 3. That in all the proceedings for the levying or making of assessments for special benefits upon lands benefited by said sewers or systems of sewers, and in all matters relating to the payment of said assessments, and in all matters relating to the payment of contractors therefor, the same procedure shall be observed as is now required by law in case of the building or constructing of a sewer or drain in a street or highway of such city.

Proceedings for making assessments for benefits.

93. SEC. 4. That in case a protest against the construction or building of such sewer or system of sewers, signed by owners of property representing a majority of the lineal feet of frontage along said sewer or system of sewers, is presented to said board of street and water commissioners, then and in that case the ordinance or other proceeding for the building of such sewer or system of sewers shall require the affirmative vote on its final passage of at least four-fifths of the members of said board.

Proceedings in case of protest against construction of sewer.

94. SEC. 5. That nothing herein contained shall be construed to dispense with the concurrence of any board now required by law to concur in any proceeding relative to the creating of liens of assessments for special benefits on lands benefited thereby.

How this act shall be construed.

An act to amend an act entitled "An act to amend an act entitled 'An act concerning cities of the first class in this state, and constituting municipal boards of street and water commissioners therein, and defining the powers and duties of such municipal boards, and relating to the municipal affairs and departments of such cities under the control and management of such boards, and providing for the maintenance of the same,' approved March twenty-eighth, one thousand eight hundred and ninety-one," which said amendatory act was approved March twenty-fourth, one thousand eight hundred and ninety-two, and to validate and confirm assessments made for improvements made under said last-mentioned act.

P. L. 1895, p. 761.

Approved March 28, 1895.

Board may repave streets, &c.

95. SEC. 1. That section one of the act of which this is amendatory [see Sec. 72, *ante*] be and the same is hereby amended to read as follows: [That the board of street and water commissioners herein authorized shall have full power, in their discretion, to repave and improve, according to specifications adopted by said board for material for any such repaving, and for the work in each case, any street, avenue, lane, alley, highway or public place already paved in any such city, or any part thereof, the expense to be assessed in the same manner as now provided by law, on the property benefited in proportion to the benefit received.]

Assessments heretofore made ratified and confirmed.

96. SEC. 2. That any and all assessment or assessments heretofore made under the provisions of the act to which this is amendatory, being chapter one hundred and thirty-five of the laws of New Jersey for the year one thousand eight hundred and ninety-two [see Sec. 72, *ante*], be and the same hereby are ratified and confirmed, notwithstanding the fact that such assessment or assessments are for more than one-third of the cost of such improvement or improvements, and that the said board proceeded and did such repaving and improvement without the petition of the owners or other legal representatives owning or representing a majority of the lineal feet frontage of any such street, avenue, lane, alley, highway or public place or part thereof within the same so repaved and improved, and that such board has proceeded to do such repaving or improving by a less vote than the unanimous votes of the commissioners of such board; *provided*, that at least four-fifths of the commissioners of such board voted for the passage of the ordinance under which such improvement was made.

Repealer.

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

3. STREETS AND SEWERS.

An act to provide for the payment of indebtedness incurred in excess of appropriation made to any city board having control of the improvements and reconstruction of streets and sewers.

P. L. 1882, p. 235.

Approved March 31, 1882.

Cities of the first class may pay indebtedness incurred in excess of appropriation for necessary repairs to sewers, &c.

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98. SEC. 1. That where, in any city of the first class of this state, the board having control of the improvement and reconstruction of streets and sewers shall heretofore or may hereafter incur any necessary indebtedness to a greater amount than the amount of their appropriation as made by law, by reason of the breakage of sewers or other accident to any public work, then and in every such case the party having control of the finances of said city shall have power to appropriate in any one year a sum not exceeding the sum of thirty-five hundred dollars, for the payment of any such indebtedness exceeding the amount of the appropriation, and the board having control of the finances of said city shall have power to borrow such sum, and shall place the same in the next tax levy.

Repealer.

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

An act to enable cities of the first class to build main sewers in certain districts, and to acquire private lands for that purpose.

Approved March 23, 1883. P. L. 1883, p. 259.

Cities of first class may construct main sewers in certain districts.

100. SEC. 1. That when in a city of the first class any neighborhood of said city lacks sewers for the proper drainage thereof, and the protection of the health of the inhabitants thereof, and there are no public streets through which it is feasible and advantageous to the city to build a main sewer from such neighborhood to tide-water or other waters into which the sewerage of such city is emptied, then it shall be lawful for the board of such city having charge of the construction of sewers to lay out and construct a main sewer or sewers, sufficient for the proper drainage of such neighborhood, through and upon any lands in such city that may be in the line of such sewer or sewers located as hereinafter provided; the proceedings for the construction of such sewer or sewers, and for the assessment for the expense thereof, shall correspond in all respects with the proceedings now prescribed by law in such city for the construction of main sewers and the assessments for the expense thereof, except so far as modified by this act.

Application of owners for construction of sewers.

101. SEC. 2. That any fifty (50) owners of land lying within such neighborhood may present to the said board an application in writing, designating the neighborhood lacking proper drainage, and setting forth the particulars bringing such neighborhood within the meaning of the first section of this act, and praying that a main sewer or sewers be constructed for the use of said neighborhood; the said board shall thereupon proceed to act upon said application in the same manner as is now provided by law for proceedings to construct sewers in such city; and if such board determine to construct the sewer or sewers applied for, they may locate the same either wholly upon private lands, or partly in streets and partly upon private lands, as the nature of the case may require.

Costs and expenses, how assessed.

102. SEC. 3. That of the costs and expenses of the construction of such sewers, including the cost of real estate acquired therefor, as hereinafter provided, there shall be assessed by the officers charged with the duty of making assessments in such city, upon the property benefited thereby, such portion as will be equal to the amount of the benefits actually acquired by said property, proportioned equitably to the benefit each piece of property shall be deemed to acquire; *provided*, that whenever the benefits of such main sewer or sewers are extended to other property by the building of lateral sewers or connections, there shall in like manner be assessed upon such property a just portion of the costs and expenses of such main sewer or sewers, which assessment may be made in connection with an assessment for such lateral sewers, or as an independent assessment.

Proviso.

Remainder of costs and expenses to be paid by city.

Bonds, rate of interest.

103. SEC. 4. That the remainder of such costs and expenses, if any, remaining unassessed, shall be paid by the city, and such city may issue its bonds to the amount necessary to pay the same, which bonds shall be of such denomination, form, terms and conditions, and bear such rate of interest, not exceeding six per centum per annum, as shall be determined by the legislative body of such city having charge of the finances thereof, and shall be executed under the common seal of the city and the signature of the mayor or other officers thereof.

Proceedings to acquire property other than public highway.

104. SEC. 5. That when any such sewer or sewers shall be located upon any land other than public highways or streets, and such land or any easement, right or estate therein shall be necessary for the construction of said sewer or sewers, then it shall be lawful for said city to acquire the said land in fee-simple, or any lesser estate or right therein; the proceedings for acquiring such property shall conform to the proceedings now provided by law for the acquiring of land for the opening of streets in such cities; in case it shall be necessary to cross any lands of the state under water in the construction of such sewer, for the purpose of obtaining an outlet, it shall be lawful to take and use such lands for that purpose; the money for

such improvement may be raised by the sale of improvement certificates, issued according to the provisions of law governing such city; the issue and sale whereof for the purpose of this act are hereby authorized.

An act to authorize the construction of sewers and drains in cities of the first class and to provide for the payment of the cost thereof.

P. L. 1893, p. 471.

Approved March 27, 1893.

Board having control of streets and sewers empowered to construct sewers and provide for disposal of sewage and drainage.

105. SEC. 1. That it shall be lawful for the board or body having control of the streets and sewers in any city of the first class in this state to order and cause sewers and drains to be constructed in any part of such city, and to provide, maintain and alter a system of sewerage and drainage for such city or any part thereof, and to establish and maintain one or more outlets and places of deposit for such sewers and drains within or without such city; to provide for the disposal of sewage and drainage from such city and to repair and cleanse such sewers and drains.

Board empowered to purchase or condemn private land.

106. SEC. 2. That if in any case it shall be in judgment of such board or body necessary or expedient so to do, it shall have power to purchase, or in case of inability to agree with the owner or owners as to the purchase price, to condemn private land and property for the purpose of constructing such sewers and drains, and other works and constructions authorized by this act, and in case any proceedings shall be taken to condemn private lands and property under the authority of this act the methods of procedure shall be the same directed to be taken for the condemnation of lands for market purposes by the act entitled "An act to authorize the purchase and condemnation of lands and the erection of buildings for market purposes in the cities of this state and other places in which market facilities are or may be required for public use and to provide therefor," passed April twenty-second, one thousand eight hundred and eighty-six.

Procedure to condemn private lands, &c.

Cost of lands to be deemed part of cost of work.

107. SEC. 3. That the land property authorized by section two of this act to be purchased or condemned shall be held to include only such lands and property as cannot lawfully be used or taken in any such city for the uses herein specified without purchase or condemnation, and that the cost of such lands and property and all expenses incurred in condemning the same shall be deemed and taken to be part of the cost of the works and improvements herein authorized, and shall be included in such cost.

Authorized to issue temporary improvement certificates.

108. SEC. 4. That such board or body in order to pay the expense of the improvements herein authorized by this act may issue temporary improvement certificates from time to time as the work progresses in such form as the said board or body may prescribe, bearing interest at a rate not greater than six per centum per annum, to be made payable at the expiration of not more than three years from the date of their issue, and to regulate the same and use the proceeds for the purpose aforesaid.

Assessments for benefits, how made, &c.

109. SEC. 5. That all special and peculiar benefits conferred upon property in any such city by any improvement herein authorized shall be assessed thereon, and be a first lien thereon, and such assessments for benefits shall be made and collected in the same manner in which benefit assessments are now or hereafter made in such city for the construction of sewers therein, and that all sums of money received from such assessments shall be used to pay the bonds herein authorized to be issued and for no other purpose, and shall be paid to the commissioners of the sinking fund of such city as collected and received.

Money paid to commissioners of sinking fund.

Authorized to issue bonds to take up the temporary certificates.

110. SEC. 6. That when such board or body shall by resolution request it, the board or body having charge of the finances of such city shall cause the bonds of any such city to be used for an amount sufficient to take up the temporary certificates issued under the authority of this act, such bonds to run for a period of not more than thirty years from the date of issue, to be negotiable in form, to bear interest at a rate not greater than five per centum per annum, payable semi-annually, and to be payable at such place as the said board or body may determine; all such bonds shall be signed by the mayor of such city and countersigned by the comptroller and

How executed.

attested by the city clerk and shall be issued under the seal of such city, and shall be negotiated and sold for not less than their par value.

To collect annually by taxation sufficient sum to pay principal, interest, &c.

111. SEC. 7. That it shall be the duty of the board or body which by law shall be authorized to make up the tax levy in such city to insert therein and levy and collect annually such sum by taxation as will be sufficient in addition to the benefits assessed for the improvement for the payment of which such bonds are issued to provide the interest due thereon and a sinking fund of not less than two per centum thereof, the annual interest and sinking fund thus raised to be paid annually to the sinking fund commissioners to meet the interest and principal of such bonds.

An act respecting the paving and repaving of streets, avenues and public highways in cities of the first class in this state, and providing for the payment of assessments for especial benefits to property benefited thereby and the payment of contractors supplying the work and material therefor.

Approved March 21, 1895. P. L. 1895, p. 392.

Paving or repaving of streets, how paid for.

112. SEC. 1. That when the board or body having control of the streets and highways of any city of the first class of this state shall by ordinance provide for the paving or repaving of any street, avenue or public highway in such city under the provisions of this act, and shall enter into a contract for the work and material or any part thereof necessary or convenient for carrying out the provisions of such ordinance and for the performance of the work therein provided for, it shall be the duty of such city to pay for such work and material in the manner following: twenty-five per centum of each payment made pursuant to the terms of every such contract may be paid in current funds from the capital fund account for paving and repaving in such city, or from such other fund as may be provided therefor; the remaining seventy-five per centum shall be paid in current funds from the sale of temporary loan bonds, to be issued by the common council or other body having charge of the finances of such city and which bonds shall upon their face indicate that they are issued for street paving and repaving; and it shall be the duty of the proper officers of such city to keep a record of all temporary loan bonds issued under the authority of this act and the time and place of payment, both of principal and interest, and make proper provisions for the payment of the same as herein provided; said bonds shall bear interest at a rate not exceeding five per centum per annum, and shall be payable at the expiration of not more than five years from the date of issue.

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Assessments for benefits may be made payable in installments.

113. SEC. 2. That hereafter assessments upon property especially benefited by the paving or repaving of any street, avenue or public highway in any city of the first class in this state, made under an ordinance as herein provided, shall be payable in five installments, the first on or before forty days from the date of the confirmation of such assessment, the second, third, fourth and fifth in one, two, three and four years after date of such confirmation respectively; the first installment of such assessment to be paid by the owner of property especially benefited shall equal one-fifth of the total assessment upon said property; the second shall be for a like amount, together with interest computed at five per centum per annum upon the unpaid balance of such assessment, and each succeeding installment shall be for one-fifth of the amount of the original assessment, together with interest computed at the rate of five per centum per annum upon the unpaid balance of the assessment; the owner of the property so assessed for especial benefits may, at his option, pay the whole of the assessment on or before forty days from the date of its confirmation or at any time thereafter, with interest at five per centum, instead of installments as herein provided for; in case any installment of such assessment is not paid by the owner of property assessed for especial benefits at the time when the same is due and payable, then and in that case interest upon such installment shall thereafter be computed at the rate of ten per centum per annum; no property so assessed for especial benefits shall be

When property may be sold for assessments.

sold for the non-payment of such assessment or any installment thereof, and no proceedings shall be taken to enforce the collection of such installments so due and unpaid until four years from the date of confirmation of said assessment, at which time, however, it shall be the duty of the comptroller and other proper officers of the city to cause such assessments to be collected in the same manner as assessments are now collected for like street improvements in said city.

Amount unassessed upon property benefited shall be charged to capital fund account.

114. SEC. 3. That when the commissioners of assessment or other body charged with making an assessment upon the property especially benefited by such paving or repaving shall have made its assessment, and the same shall have been confirmed, the amount remaining and unassessed upon property especially benefited and thereby charged to the city at large, shall be charged to and deducted from the capital fund account for paving and repaving in such city, or from such other fund as may be provided therefor, and there shall be credited back to said fund the twenty-five per centum of the cost of such improvement if theretofore charged against such fund for paving and repaving in such city or such other fund as may be provided therefor; and in case the amount so charged to said capital or other fund for paving or repaving in such city shall exceed the twenty-five per centum of the cost of such improvement, such excess shall be pledged to and used for the redemption of temporary loan bonds issued for said improvement; and in case the amount so charged as aforesaid shall be less than twenty-five per centum of the cost of the said improvement, then said difference shall be made good to the capital fund account from the proceeds of the sale of temporary loan bonds of the same character as those hereinbefore provided for; and all moneys received from the assessments of especial benefits or the installments thereof shall be pledged and used for the redemption of the outstanding temporary loan bonds issued as aforesaid.

Difference shall be made good by sale of bonds.

Proceedings under this act to refer to it.

115. SEC. 4. That all written or printed proceedings had under the provisions of this act shall refer to the number of the chapter of this act in the laws of this state.

Repealer.

116. 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.

An act respecting the paving, repaving, grading, curbing, sewering and otherwise improving of streets and public highways in cities of the first class in this state, and providing for the payment of the same, and further providing that the assessments upon property for special benefits shall be payable in full or on installments, at the option of the property-owner.

Approved March 21, 1895.

P. L. 1895, p. 407.

Further powers conferred upon board of streets and highways.

117. SEC. 1. That in addition to any power now vested in any board or body having control of the streets and highways of any city of the first class of this state, said board or body shall have further power, either upon the application of any owner or owners of property liable to assessment for any contemplated improvement, or in their discretion, to pave, repave, grade, curb, sewer or otherwise improve any street, avenue or public highway in such city under the provisions of this act, and all proceedings taken hereunder shall refer to this act by its chapter number [Chapter CCXVII.], and this act shall not be exclusive, nor affect the right of such board or body to proceed as heretofore under existing laws governing the subject-matter named in the title and sections of this act.

Proceedings shall refer to this act.

When improvement is contemplated, specifications shall be prepared and filed.

118. SEC. 2. That when in the judgment of said board or body it is desirable that any improvement contemplated by this act should be made, then said board or body may direct their proper officers to prepare specifications describing therein the location and character of such improvement, together with a preliminary estimate of the amount of materials required therefor, which when so prepared, presented to and adopted by said board or body shall be filed, and upon the filing thereof the officer or officers now performing a similar duty in such city shall cause to be placed in the daily official newspapers of said city for five consecutive insertions, and in

Proposals shall be advertised for.

any weekly official newspapers in said city for one insertion, an advertisement soliciting proposals for the doing of the work and for the furnishing of the materials necessary to complete the improvement, and when such proposals shall be presented said board or body may, at the time of such presentation, or at any time thereafter, not exceeding six months, at some public meeting of said board, either reject any or all of said proposals or proceed to award a contract therefor in such manner as is now prescribed by law in any said city for the making of improvements where the cost thereof, either in whole or in part, is payable by assessments for special benefits on property benefited thereby; which award of contract shall be provisional and shall impose no duty or liability upon such city, unless it shall be finally made by such board or boards, as hereinafter provided.

Award shall be made at public meeting of board.

119. SEC. 3. That when a contract shall be awarded provisionally as herein provided, such board or body shall cause to be prepared by the commissioners of assessments or the officer or officers now performing a similar duty in such city, a preliminary sketch or map based upon said award of such contract and the amount of materials estimated as aforesaid, which shall show the probable total cost of such contemplated improvement and the probable amount to be assessed upon the property specially benefited thereby; and upon the filing of such preliminary sketch the officer or officers now performing a similar duty in such city shall thereupon cause to be published in the official newspapers of such city a notice to parties interested in said proposed improvement of the time and place for hearing parties in objection thereto; said notice shall be inserted in the official daily newspapers of such city for a period of five days, and in any weekly official newspaper for one insertion, all prior to the time named in said notice for such hearing; and at such time and place said board or body shall proceed to hear and adjudicate upon any objections which may be presented, and no improvement shall be proceeded with under the provisions of this act, if objections thereto, in writing, are presented to said board or body representing properties liable to more than one-half of the probable assessment for said improvement, on the basis of the preliminary sketch; in case objections shall not be so presented, or if, in the opinion of said board or body, a sufficient reason has not been presented for stopping said improvement, an award of such provisional contract shall be then finally made; *provided, however*, that in case a contract is now required to be concurred in by the board or body now having a concurring power in the award of contracts relating to assessable improvements, such concurrence shall not be dispensed with.

Map shall be made and objections heard at a meeting to be advertised in the newspapers.

Proviso.

120. SEC. 4. That it shall be the duty of the said city to pay for such work and materials by temporary bonds or improvement certificates, which bonds or certificates shall, upon their face, indicate the improvement for the payment of which and the date of the contract in pursuance of which they are so issued, by virtue of the provisions of this act; and it shall be the duty of the proper officer or officers of such city to keep a record of all bonds or certificates so issued, which said bonds or certificates shall be payable at the option of the city, and within six years from the date thereof, and shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually, from the first day of January or July next succeeding the day of issue; that the said bonds or certificates shall, as far as practicable, be issued in sums and for amounts of one hundred dollars and multiples thereof, and shall be negotiable, and shall not be subject to defense by the city causing the same to be issued, except such defense as might be interposed to the payment of bonds issued in such city for like improvements, and such bonds or certificates shall not be subject to taxation in the hands of the holder; and in case the amount assessed for special benefits on the property specially benefited does not equal the whole cost of the improvement, and any portion of the cost of such improvement is required to be borne by the city at large, said city shall provide for the payment thereof in such manner as is now provided by law in such city for payments where any part of the cost of an improve-

Temporary bonds or certificates may be issued in payment.

Bonds or certificates shall be recorded.

Character and denomination of bonds or certificates.

Shall not be taxable.

ment, proposed to be paid by assessments upon property specially benefited, is placed upon the city at large.

Board shall file statement of cost of improvement.

121. SEC. 5. That upon the completion of the work done by contract as herein provided, the said board or body having control of streets and highways in such city shall cause to be filed with the commissioners of assessments or the officer or officers now levying assessments upon property specially benefited by an improvement, a statement showing the entire cost of said improvement, and such commissioners of assessments or officer or officers shall proceed to make the assessment, and prepare a report and map showing the benefit to each lot or parcel of land which is specially benefited by reason of the making of the improvement; and said assessment, when so made, shall be filed with the clerk of the board or body making the improvement, whereupon notices by publication shall be given to the owners of the property liable to assessment for said improvement, which said notices shall name the time and place for the hearing of objections, and shall be published in such manner and for such length of time as heretofore provided in this act for the notice of hearing the preliminary map or sketch, and at the time and place so fixed in said notice, said board or body shall then proceed to hear and adjudicate upon all objections which may be presented in writing against the confirmation of final assessment, and said board or body shall have the authority to confirm the same as a whole or refer the same back to the said commissioners of assessments, officer or officers making the same for further consideration, and the proceedings thereon shall be conducted in the same manner as the making of the original assessment, and the final action thereon shall be shown in the resolution of confirmation; and a copy of said final assessment map, on which shall be stated the date of confirmation, shall be then filed with the officer or officers upon whom devolves the duty of collection of assessments in any such city.

Commissioners shall make assessment and prepare report and map.

Hearing of objections shall be advertised.

Final assessment shall be filed.

Owners shall have five years in which to pay assessment.

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A98-193

122. SEC. 6. That after the confirmation of the said assessment as herein provided, the property-owner or owners shall have five years from the date when the annual tax is payable next after the making of the aforesaid assessment in which to pay for the said improvement; the amount assessed against each piece of property shall bear interest at the rate of six per centum per annum from the date of confirmation, and such payment may be made immediately after confirmation or in five equal annual installments as follows: the first installment is to be due and payable when the annual tax is payable next after the making of the aforesaid assessment and confirmation, and each installment thereafter shall be due and payable on and after the date of payment of annual taxes of each year in said city, together with interest computed at the rate aforesaid upon the unpaid balance of such assessment; and the property-owner or owners shall at any time after the aforesaid confirmation have the right to pay the said assessment or any amount remaining unpaid thereon with interest as aforesaid from the date of confirmation to date of payment; all payments herein provided for shall be paid to the official or officials authorized to receive the payment of assessments in such city.

Assessment shall bear interest.

When installment shall be due.

Collection of assessments, how enforced.

123. SEC. 7. That all property against which such assessment is made shall be subject, as to each annual installment, to the laws now in force for the collection of taxes and assessments, and all such assessments and installments shall be enforced and collected in the manner now or hereafter provided by law for the collection of taxes and assessments; and it shall be lawful for such city, through its proper board, to provide by ordinance or resolution for such enforcement and collection, in accordance with the provisions of this act and the laws of this state.

Proceedings necessary in order to obtain the advantages of this act.

124. SEC. 8. That in order to take advantage of the provisions of this act, and put and keep the same in operation in such city, such board or body ordering the contract work herein authorized shall pass a resolution, including therein an itemized statement of the cost of advertising done as herein directed, and any and all costs not herein mentioned, and which may have been necessarily incurred to carry out the provisions of this act, which statement shall not include any amount of said cost as before

referred to, which represents any amount placed upon the city at large by reason of the assessments on property specially benefited by the improvement, not equaling the cost of the improvement, and shall forward such resolution and statement to the board or body in such city having the control of the finances thereof; and such last-named board or body shall borrow such sum or sums of money so included in such resolution and statement in anticipation of the collection of taxes to be thereafter levied, and to issue evidences of indebtedness therefor at a rate of interest not exceeding five per centum per annum; *provided*, that any money borrowed as aforesaid shall be met and paid by an appropriation to that board having borrowed the money as aforesaid, the same to be placed in the tax levy next thereafter to be levied in any such city.

An act respecting the opening, widening, extending or otherwise improving of streets, avenues and public highways in cities of the first class in this state, and providing for the payment of the same; and further providing that the assessments upon property for special benefits shall be payable in full or in installments at the option of the property-owner.

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S96-62
A00-405

Approved March 22, 1895. P. L. 1895, p. 582.

125. SEC. 1. That in addition to any power now vested in any board or body having control of the streets and highways of any city of the first class of this state, said board or body shall have further power either upon the application of any owner or owners of property liable to assessment for any contemplated improvement, or in their discretion to cause to be opened, widened, extended or changed as to its boundary any street, avenue or public highway in such city under the provisions of this act, and all proceedings taken hereunder shall refer to this act by its chapter number [Chapter CCLXXXIX.], and this act shall not be construed to affect the proceedings now provided by law regulating the subject-matters herein named, nor shall the proceedings which may be taken under the provisions of this act be abridged by the provisions of any previous act.

Further powers conferred on street boards, &c.

126. SEC. 2. That when in the opening, widening or extension of any street, avenue or public highway under the provisions of this act it becomes necessary to lay out and establish grades, and grade, curb and flag any portion or the whole of same, and to erect any viaduct, cause any filling to be made, retaining walls, bridges, abutments and approaches to be built, in order that a continuous and suitable public highway may be provided, such board or body may cause the same to be done; *provided, however*, that the power vested hereunder shall not be construed to embrace general paving or sewering.

Authority to build viaducts, bridges, abutments, &c.

Proviso.

127. SEC. 3. That when in the judgment of said board or body it is desirable that any street shall be opened, widened or extended and a grade established therefor, and any improvement contemplated by this act should be made, then said board or body may, by a resolution setting forth the nature of the opening, widening, extension, grade and the character of the improvement desired, direct their proper officers to prepare either a map or specifications, or both, describing therein the location and character of such opening, widening, extension, grade and improvement, together with a preliminary estimate of the amount of materials and work necessary to carry out the desired improvement, which when so prepared, presented to and adopted by said board or body shall be filed, and upon the filing thereof, the officer or officers now performing a similar duty in such city, shall cause to be placed in the daily official newspapers of said city for five consecutive insertions and in any weekly official newspaper in said city for one insertion, an advertisement soliciting proposals for the doing of the work and for the furnishing of the materials necessary to complete the improvement, and when such proposal shall be presented, said board or body may at the time of such presentation or at any time thereafter, not exceeding six months, at some public meeting of said board or body, either reject any or all of said proposals or proceed to award a contract therefor in such manner as now prescribed by law in any said city

Proceedings for making of contract for street improvements.

Maps and specifications shall be filed.

Proposals shall be advertised for.

for the making of improvements when the cost thereof, either in whole or in part, is payable by assessments for special benefits on property benefited thereby, which award of contract shall be provisional only and shall impose no duty or liability upon such city unless it shall be finally made by such board or body as hereinafter provided.

Preliminary map and report of improvement to be made.

128. SEC. 4. That when a contract shall be awarded as aforesaid such board or body shall cause to be prepared by such officer or officers now performing a similar duty in such city a preliminary map and report of such improvement based upon such award of such contract and the amount of materials estimated as aforesaid, which said map shall show in detail the real estate or easements required to be taken for such improvement, and as far as practicable the names of the owners of such real estate as is required to be taken or any interest therein acquired and the damage to be done to any owner or owners, and shall also show the total cost of such contemplated improvement and the probable amount to be assessed upon the property specially benefited thereby, and the officer or officers so preparing said map and report shall, in the matter of real estate to be taken and of easements to be acquired and damages to be sustained, proceed in all things in the same manner as is now prescribed by law in any such city for the opening of streets when an assessment for special benefits is to be levied therefor; and upon the filing of such preliminary map and report the officer or officers now performing a similar duty in such city shall thereupon cause to be published in the official newspapers of such city a notice to parties interested in said proposed opening, widening, extension and establishing of grade of any street and any improvement, of the time and place for hearing objections thereto, which said notice shall describe the location and character of the opening, widening, extension and establishing of grade of any street and the proposed improvement, real estate to be taken or damaged and the easements to be acquired and the property to be assessed therefor, and such hearing shall not be held sooner than two weeks from the date of first publication of said notice; said notice shall be inserted in the official daily newspapers of such city for a period of five days, and in any weekly official newspapers of such city for one insertion, and at the time and place so fixed said board or body shall proceed to hear and adjudicate upon any objections which may be presented, and no opening, widening, extension, establishing of grade or any improvement shall be proceeded with under the provisions of this act if objections thereto in writing are presented to said board or body representing properties liable therefor to more than one-half of the probable assessment on the basis of preliminary map; in case objections shall not be so presented, or if in the opinion of said board or body a sufficient reason has not been presented for stopping said improvement, an award of contract shall then be finally made and payment ordered for the real estate and easements to be taken and acquired and damages sustained; *provided*, that no payment shall be made for real estate taken, or easements acquired, or damages sustained, except in such manner as is now prescribed by law in any such city for the acquiring of lands for the opening of streets; *and provided further*, that if there is now required in any such city the concurrence of any other board or body in the final award of contract for assessable improvements and in the payments of awards for real estate taken, or easements acquired, and damages sustained, such concurring power shall not be dispensed with.

Hearing shall be advertised.

Proviso.

Proviso.

Bonds or certificates may be issued to pay for cost of improvements.

129. SEC. 5. That it shall be the duty of such city to pay for such real estate as may be taken or easements acquired, and for such damages as may be sustained in carrying out the provisions of this act, in the same manner as payment is now made in any such city for like purposes, when an assessment is to be levied for special benefits, and to pay for such work and materials as may be required by temporary bonds or improvement certificates, which bonds or certificates shall upon their face indicate the improvement for the payment of which and the date of the contract in pursuance of which they are so issued, by virtue of the provisions of this act; and it shall be the duty of the proper officer or officers of such city to keep a record of all bonds or certificates so issued, which said bonds or

Record shall be kept of bonds issued.

certificates shall be payable at the option of the city and within six years from the date thereof, and shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually, from the first day of January or July next succeeding the date of issue; that the said bonds or certificates shall, as far as practicable, be issued in sums and for amounts of one hundred dollars and multiples thereof, and shall be negotiable, and shall not be subject to defense by the city causing the same to be issued, except such defense as might be interposed to the payment of bonds issued in such city for like improvements, and such bonds or certificates shall not be subject to taxation in the hands of the holder; and in case the amount assessed for special benefits on the property specially benefited does not equal the whole cost of the improvement, and any portion of the cost of such improvement is required to be borne by the city at large, said city shall provide for the payment thereof in such manner as is now provided by law in such city for payments where any part of the cost of an improvement, proposed to be paid by assessments upon property specially benefited, is placed upon the city at large.

Character and conditions of bonds and certificates.

Shall not be liable to taxation.

130. SEC. 6. That upon the completion of the work done by contract as herein provided, the said board or body having control of streets and highways in such city shall cause to be filed with the commissioners of assessment, or the officer or officers now levying assessments upon property specially benefited by an improvement, a statement showing the entire cost of said improvement, and such commissioners of assessment, officer or officers shall proceed to make the assessment and prepare a report and map showing the benefit to each lot or parcel of land which is specially benefited by reason of the opening, widening, extension and the establishing a grade of any street and the making of any improvement; and said assessment when so made shall be filed with the clerk of the board or body making the opening, widening, extension and the establishing a grade of any street and the improvement, whereupon notices by publication shall be given to the owners of the property liable to assessment therefor, which said notices shall name the time and place for the hearing of objections, and shall be published in such manner and for such length of time as heretofore provided in this act for the notice of hearing the preliminary map and report, and at the time and place so fixed in said notice said board or body shall then proceed to hear and adjudicate upon all objections which may be presented in writing against the confirmation of final assessment, and said board or body shall have the authority to confirm the same as a whole, or refer the same back to said commissioners of assessment, officer or officers making the same, for further consideration, and the proceedings thereon shall be conducted in the same manner as the making of the original assessment, and the final action thereon shall be shown in the resolution of confirmation; and a copy of said final assessment map, on which shall be stated the date of confirmation, shall then be filed with the officer or officers upon whom devolves the duty of collection of assessments in any such city.

Commissioners shall make and file report of cost.

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Assessors shall assess benefits and file report thereof.

Notice to owners shall be advertised and objections heard.

Final action shall be stated and filed.

131. SEC. 7. That after the confirmation of said assessment as herein provided the property-owner or owners shall have five years from the date when the annual tax is payable, next after the making of the aforesaid assessment, in which to pay for the same; the amount assessed against each piece of property shall bear interest at the rate of six per centum per annum from the date of confirmation; and such payment may be made immediately after confirmation or in five equal annual installments as follows: the first installment is to be due and payable when the annual tax is payable, next after the making of the aforesaid assessment and confirmation, and each installment thereafter shall be due and payable on and after the date of payment of annual taxes of each year in said city, together with interest computed at the rate aforesaid upon the unpaid balance of such assessment, and the property-owner or owners shall, at any time after the aforesaid confirmation, have the right to pay the said assessment or any amount remaining unpaid thereon, with interest as aforesaid, from the date of confirmation to the date of payment; all pay-

Unpaid assessments shall bear interest.

Assessments may be paid in installments.

ments herein provided for shall be paid to the official or officials authorized to receive the payment of assessments in such city.

Collection of assessments to be enforced in manner provided by law.

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A98-67b

132. SEC. 8. That all property against which said assessment is made shall be subject, as to each annual installment, to the laws now in force for the collection of taxes and assessments, and all such assessments and installments shall be enforced and collected in the manner now or hereafter provided by law for the collection of taxes and assessments; and it shall be lawful for such city through its proper board to provide by ordinance or resolution for such enforcement and collection in accordance with the provisions of this act and the laws of this state.

Advantages of this act, how secured.

133. SEC. 9. That in order to take advantage of the provisions of this act and put and keep the same in operation in such city, such board or body ordering the opening, widening, extension or establishing of grade of any street and the contract work herein authorized shall pass a resolution including therein an itemized statement of the cost of advertising done as herein directed, and any and all costs not herein mentioned and which may have been necessarily incurred to carry out the provisions of this act, which statement shall not include any amount of said costs as before referred to which represents any amount placed upon the city at large by reason of the assessments on property specially benefited by the improvement not equaling the cost of the improvement, and shall forward such resolution and statement to the board or body in such city having the control of the finances thereof; and such last-named board or body shall borrow such sum or sums of money so included in such resolution and statement in anticipation of the collection of taxes to be thereafter levied, and to issue evidences of indebtedness therefor at a rate of interest not exceeding five per centum per annum; *provided*, that any money borrowed as aforesaid shall be met and paid by an appropriation to that board having borrowed the money as aforesaid, the same to be placed in the tax levy next thereafter to be levied in any such city.

Proviso.

Money for acquiring real estate and paying damages, how provided.

134. SEC. 10. That the board or body in any such city having control of the finances thereof, shall provide such sum or sums as may be necessary to acquire any real estate or easements therein for the purposes of this act to provide for any payment and for damages to such real estate as hereinbefore provided, and are empowered to issue evidences of indebtedness therefor at a rate of interest not exceeding five per centum per annum, and such certificates of indebtedness shall subsequently be redeemed when the assessments levied for special benefits hereunder are collected, or in such other manner as said board or body may direct.

4. FORMATION OF WARDS.

An act providing for the formation and establishment of wards in cities of the first class in this state. (a)

P. L. 1894, p. 387.

Passed May 16, 1894.

Mayor may appoint commissioners to divide city into wards.

135. SEC. 1. That it shall and may be lawful for the mayor or chief executive officer of any city of the first class in this state to nominate, and under his hand appoint, five persons, residents of the city in and for which they are appointed, commissioners, whose duty it shall be, within sixty days after their appointment to divide the city in and for which they are appointed into wards, as herein provided; not more than three of said commissioners so appointed in any such city shall be of the same political party, and they shall within ten days after their appointment, having first taken and subscribed before some officer duly authorized to administer oaths and affirmations, an oath or affirmation faithfully and impartially to execute and perform the duties imposed upon them, proceed to divide such city into wards; all such wards shall be formed of contiguous territory, and in dividing the same the said commissioners shall have regard to equality of population; the boundary and dividing lines of all such wards

(a) This is a general law. *McLaughlin* v. *Newark*, 28 *Vr.* 298.

shall be properly described, and a map defining the said lines and showing the extent and boundaries of such wards shall be made and filed by the said commissioners in the office of the city clerk of such city, with a description or statement of such lines, all of which shall be attested and certified by the said commissioners, under their hands, and shall there remain of record.

Power and salary of commissioners.

136. SEC. 2. That the acts of a majority of the said commissioners shall be deemed and taken to be the acts of all the said commissioners, and shall be valid and binding when done in pursuance of this act; such commissioners shall have power and authority to employ in each city, when so appointed, a competent surveyor, to aid them in the discharge of their duties; and the expenses of the said commissioners and of the said surveyor, and the compensation for their services, shall be paid for by the city in and for which they are appointed, in the same manner that other officers in such city are paid for services and expenses; each of the said commissioners shall be paid for their services under this act the sum of three hundred dollars, and the expenses and services of the said commissioners and their agents shall be paid in like manner upon the certificate of the said commissioners; such expenses, however, in no case to exceed the sum of five hundred dollars.

Existing ward lines, when abolished.

137. SEC. 3. That when any such city shall have been divided into wards, as herein provided, and the said map and description shall have been filed as herein directed, all existing ward lines therein shall be and they are hereby abolished, and the wards so designated and described shall be and continue the wards of the said city, and thereafter all officers elected or appointed in the said city, for or representing the wards thereof, shall be appointed for or elected from the wards as established.

Tenure of existing ward officers.

138. SEC. 4. That all officers elected or appointed for existing wards in any city wherein wards in any city wherein the ward lines are changed, and new wards created, as herein provided, shall continue in office until their respective terms of office shall have expired, and until others are duly appointed or elected to take their places, and that hereafter such number of officers shall be elected or appointed from the new wards as may be elected or appointed from the wards now existing.

Commissioners shall define election districts.

139. SEC. 5. That when new wards are created, as herein provided, it shall be the duty of the commissioners making a division of the said wards, as herein directed, to divide the said new wards into election districts or precincts, and cause boundary lines of the same to be marked upon the map to be made as herein provided; such election precincts shall be, so far as practicable, constituted as not to contain over six hundred voters, and that when the division of the same is made as herein provided, into election districts or precincts, and the map herein required to be made has been made and filed as herein directed, election districts or precincts as they now exist in the territory so divided into wards shall be, and they are hereby, abolished, and the new districts or precincts herein provided for shall be the election districts or precincts of the wards so established.

Term "ward" defined.

140. SEC. 6. That the term "wards," as used in this act, shall include all divisions of cities known as "aldermanic districts," and that hereafter all such districts shall be known and designated as wards.

Repealer.

141. SEC. 7. 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 on Monday, the fourteenth day of May, eighteen hundred and ninety-four. (*a*)

Supplement.

Approved March 19, 1895. P. L. 1895, p. 346.

Aldermen and other officers shall be elected in new wards.

142. SEC. 1. That in all cities of the first class in this state in which new ward lines may have been or shall hereafter be established under the provisions of the act to which this is a supplement, there shall be elected at the first charter election ensuing after the formation of such new wards,

(*a*) Held that this act went into effect on its passage. *McLaughlin* v. *Newark*, 28 *Vr.* 298.

one alderman from each of the wards thus formed, who shall hold the offices to which they have been elected for the term of two years; and that one alderman shall be elected each year thereafter in each of the said wards, to hold office for a like term; and other officers required to be elected in said new wards shall be elected to such number only as would have been required to be elected for full terms in such wards had the new wards been the original wards theretofore provided for by law.

Repealer.

143. SEC. 2. 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.

5. MISCELLANEOUS ACTS.

Act respecting licenses in cities of the first class.

P. L. 1882, p. 247.

Approved March 31, 1882.

Certain cities may pass, alter or repeal ordinances to compel payment of license fee for cars.

144. SEC. 1. That it shall be lawful for the board of aldermen or common council of all incorporated cities of this state, having a population of over one hundred thousand as by the last census of the United States, to pass, alter or repeal ordinances or by-laws to compel the payment of a license fee for each and every car run through or across the streets of any such city of the first class for the purpose of carrying passengers from place to place in any such city of the first class, or from one city of the first class to an adjacent city of the first class or town, and to impose such license fee for the purpose of increasing the revenue of any such city of the first class, under the penalties now prescribed by the charter of any such city of the first class for violation of its ordinances; *provided*, that such license fee shall not exceed the sum of ten dollars for each car for each year. (*a*)

Proviso.

To apply only to horse cars.

145. SEC. 2. That this act shall only apply to the car or cars of any company or corporation that shall cause its car or cars to be drawn by a horse or horses, mule or mules or other animal.

An act to authorize cities of the first class to provide for and pay amounts unpaid for lighting streets, public buildings and public places, arising from insufficient appropriations.

P. L. 1893, p. 226.

Approved March 11, 1893.

City may borrow money to light streets, &c.

146. SEC. 1. That whenever in any city of the first class of this state, by reason of insufficient appropriations for lighting streets, public buildings and public places in such city, the persons or corporations which have furnished or shall hereafter furnish light to the streets, public buildings and public places, or either thereof, of such city, remain unpaid therefor in whole or in part, whether for one year or more, it shall be the duty of such city to borrow such sum or sums of money as shall be necessary to meet such deficiency, and to pay the same therewith.

Temporary bonds may be issued therefor.

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A97-237

147. SEC. 2. That in such case the board or authority of said city having charge of the lighting of said city, shall make its requisition for the sum needed for the purpose aforesaid, on the board or other authority having the management and control of the finances of said city, and that board or authority shall thereupon cause to be issued temporary bonds of such city for the amount named in such requisition, bearing interest at a rate not exceeding four and a half per centum per annum and to be sold at not less than par, and the proceeds thereof shall be applied to the payment of such unpaid amount.

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A97-238

Bonds paid by taxation.

148. SEC. 3. That the amount, principal and interest, of said bonds, shall be placed in the next annual tax levy and assessed and collected as other taxes.

(*a*) This act is local and special, and therefore unconstitutional, because by its terms it can never apply to any other cities than Newark and Jersey City. *Pavonia Horse Railroad Co.* v. *Jersey City*, 16 *Vr.* 298.

An act to regulate and prevent the erection of frame or wooden buildings in cities of the first class.

Approved May 15, 1894. P. L. 1894, p. 331.

Construction of frame buildings, how regulated, &c.

149. SEC. 1. That it shall be lawful for the board of aldermen or common council of every incorporated city of the first class of this state to pass, alter and repeal ordinances regulating and prohibiting the construction of frame or wooden buildings in any such city, with power to impose penalties for violation of the provisions of any such ordinance, and also per diem penalties for failure to comply with the provisions of any such ordinance, and to fix penalties not exceeding one hundred dollars for every violation and penalties not exceeding fifty dollars for each day any violation shall continue.

Repealer.

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

An act concerning municipal boards or departments in cities of the first class in this state.

Approved May 17, 1894. P. L. 1894, p. 448.

City funds paid to whom.

151. SEC. 1. That all moneys received from any source by municipal boards or departments established in cities of the first class in this state shall be paid by such boards or departments to the treasurer or other person charged with the custody of the funds of such city; and where the power to borrow money in anticipation of estimated receipts has heretofore been vested in any board in such city such power shall be and is hereby transferred to and vested in the mayor and common council or other body having control of the finances of such city.

Authority to borrow, in whom vested.

Moneys expended shall be by warrant on treasurer.

152. SEC. 2. That all moneys expended by such boards or departments shall be by warrant on the treasurer or other person charged with the custody of the funds of such city issued, countersigned and audited as warrants of the board of police and fire commissioners in such cities are now required to be issued, countersigned and audited.

Repealer.

153. SEC. 3. 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.

An act respecting cities of the first class in this state and providing for the supervision of expenses of such cities by the mayors thereof.

Approved March 22, 1895. P. L. 1895, p. 639.

Warrants and claims shall be presented to mayor for approval.

154. SEC. 1. That no warrant for the payment of money shall be delivered by any officer of any city of the first class in this state to any person, firm or corporation until such warrant and the bill or claim intended to be paid thereby shall have been presented to the mayor for his approval.

Duty of the mayor relative to approval or disapproval of warrants.

155. SEC. 2. That it shall be the duty of the mayor of such city, within five days from the receipt of said warrant, if approved by him, to deliver the same to the auditor, comptroller or other officer entitled thereto, and if disapproved by him, to deliver the same to the officer or officers issuing said warrant, and forward the reasons for disapproval to the board ordering the bill or claim paid, and warrants when so disapproved shall be marked "canceled," and shall be further stamped "disapproved by the mayor," and the bills or claims for the payment of which said warrants were drawn shall thereupon be returned to the body or board ordering the payment of such bills, for further action thereon.

Board ordering payment may pass bills over mayor's disapproval.

156. SEC. 3. That the said body or board shall have power by a majority vote of all its members to order the said bills so disapproved to be nevertheless paid, and in that case warrants shall be drawn for the same, and such warrants shall then be effective and be signed by the proper officers.

An act respecting expenditures in cities of the first class of this state.

P. L. 1895, p. 763.

Approved March 28, 1895.

Certain sums may be expended in anticipation of appropriations.

157. SEC. 1. That in all cities of the first class in this state where appropriations for municipal purposes are by law made during the fiscal year for which such appropriations are made it shall be lawful for the boards, bodies and officers thereof during the portion of the year intervening between the beginning of the fiscal year and the making of the tax levy to expend in anticipation of appropriations sums of money proportioned for such period to the sums appropriated for like purposes and expended by such boards, bodies and officers during the year immediately preceding.

An act to enable cities of the first class of this state to issue bonds in order to provide and maintain a supply of pure and wholesome water.

P. L. 1895, p. 768.

Approved April 1, 1895.

Cities may issue bonds to furnish a water-supply.

158. SEC. 1. That the cities of the first class of this state, for the purpose of procuring and maintaining an adequate supply of pure and wholesome water, are hereby authorized to issue and provide for the payment of their bonds to the extent that may be necessary for that purpose, as provided in the second section of this act, bearing interest at a rate not exceeding five per centum per annum, payable within twenty-five years from their issue, to be sold at a price not below par, and to provide a sinking fund or funds for the redemption thereof.

Bonds may not be issued until certain conditions are complied with.

159. SEC. 2. That no issue of bonds shall be made, or the proceeds thereof used, to pay for the works, reservoirs, pipe lines, lands, water and water rights for a permanent supply of water, according to the terms of any option expressed in any contract for a supply of pure and wholesome water, until such purchase according to the terms of the option expressed in said contract has been submitted to popular vote in such city and been approved, provided that the issue of bonds hereunder, other than that authorized to pay for the purchase according to said option expressed in the contract aforesaid referred to, if exceeding five hundred thousand dollars, shall not be made until such issue so exceeding five hundred thousand dollars shall be submitted to popular vote in such city and be approved.

An act respecting cities of the first class and respecting the publication of ordinances, notices and other matters required by law to be published in newspapers therein.

P. L. 1895, p. 773.

Approved April 1, 1895.

Ordinances, notices, &c., to be published for what time.

160. SEC. 1. That it shall not be necessary in any city of the first class in this state to publish any ordinance, notice or other matter of any kind now required by law to be published in newspapers or in official newspapers to hereafter publish such ordinance, notice or other matter for a longer space than five days, nor for more than five insertions in the daily official newspapers of such city, nor more than for one day or for one insertion in the official weekly newspapers of such city; but such boards making the designation of such official newspapers may by resolution provide that any ordinance, notice or other matter required by law to be published shall be published in the official newspapers for a longer time than is herein provided.

Certain ordinances to be published by title only.

161. SEC. 2. That all ordinances of cities of the first class in this state to open, grade, gutter, curb, pave, repave, sewer, resewer or otherwise improve any street now required by law to be published either between the first and second readings, or between the second and third readings, or after the final passage thereof, shall hereafter be noticed or published between such first and second reading, or between such second and third reading, or after final passage, by title only, and the title of all such ordinances shall state the street, avenue or public highway, or other public place or section thereof to be improved, and the general character of the improve-

ment; all such ordinances after final passage shall be entered in full in the ordinance-book or books of the said board, and the said ordinance-books and all ordinances which have been duly passed by said board but not yet entered in said ordinance-book or books shall be at all times during business hours open to public inspection.

Ordinances to be recorded.

162. SEC. 3. That no ordinance, notice or other matter required by law to be published in official daily newspapers shall be held invalid because of the failure to print such ordinance, notice or other matter required by law to be printed in all the official newspapers of such body or board; *provided*, such ordinance, notice or other matter so required to be printed and published shall have been duly printed and published in at least two official newspapers.

Failure to make certain advertisement shall not invalidate ordinances.

163. SEC. 4. That all ordinances granting to any person or corporation consent to the location of the tracks of a street railway, or consent to the location of pole lines or subways, or consent to the stringing of telegraph, telephone or other wires, or to the laying of pipes in any street, avenue or public highway in said city, or granting to any person or persons or to any corporation or corporations rights or privileges in the streets, avenues or public highways of such city, shall provide therein that all costs and expenses connected with the publication of such ordinance, and all costs of the publication of resolution or notices connected therewith, shall be paid by the person or persons, corporation or corporations, applying for such consent, right or privilege.

Cost of publication of ordinances granting certain privileges &c., to be paid by grantees.

164. SEC. 5. That in the selection of official newspapers in such cities, regard shall be had to the age and average circulation of the said newspapers in such city.

Official newspapers, how to be selected.

165. SEC. 6. That in any city of the first class it shall and may be lawful for the common council or other governing board having charge and control of the selection of official newspapers therein to appoint as an official newspaper for such city, a weekly newspaper printed and circulating in said city.

A weekly newspaper may be selected.

166. SEC. 7. That until the designation provided for by this act is made the official newspapers heretofore designated in any such city shall continue to be the official newspapers of such city.

Present official newspapers continued temporarily.

167. SEC. 8. 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 submit to popular vote the purchase of a supply of pure and wholesome water in cities of the first class in this state.

Approved April 1, 1895. P. L. 1895, p. 775.

168. SEC. 1. That when any contract hereafter made by any city of the first class in this state for a supply of a pure and wholesome water contains an option for the acquiring by such municipal corporation of the works, reservoirs, pipe lines, land, water and water rights for such supply on terms fixed in said contract, the question of purchase according to such option shall be submitted, at either any general or charter election, or election specially called, to the voters of such city, before the acquiring by purchase of the works, reservoirs, pipe lines, land, water and water rights for such supply according to the terms of the option in said contract shall be effective.

Question of purchase of works, &c., for water-supply to be submitted to voters.

169. SEC. 2. That the elections herein authorized shall be held upon the proclamation of the mayor of such city, whereof ten days' notice shall be given by public advertisement in two daily newspapers circulating in such city.

Notice of election shall be advertised.

170. SEC. 3. That in case the elections herein authorized fall on the day of any general or charter election of such city, no separate ballots shall be required for the purpose of the vote on the adoption or rejection of the question to purchase according to said option; each voter in favor of said purchase shall deposit a ballot containing the words "purchase of new water-supply accepted" written or printed thereon, and those who are

How the election shall be conducted.

opposed shall each deposit a ballot with the words "purchase of a new water-supply rejected" written or printed thereon; in case the elections as herein authorized should be special elections, then those voters who are in favor of the acceptance of said purchase shall each deposit a ballot containing the words "city of ——— (naming it), purchase of new water-supply accepted" written or printed thereon, and those who are opposed shall each deposit a ballot with the words "city of ——— (naming it), purchase of a new water-supply rejected" written or printed thereon; and it shall be the duty of the city clerk to furnish official ballots to all persons entitled thereto, properly printed, to enable the voters to cast their ballots for or against such purpose, as they may desire.

How votes shall be canvassed.

171. SEC. 4. That there shall be a canvass on the return of votes upon the question of such acceptance or rejection, by the election officers, in the same way and manner as for officers voted for at an election; and if a majority of the ballots cast, for or against said purchase, contain the words "purchase of new water-supply accepted," then the acquiring by purchase of the works, reservoirs, pipe lines, land, water and water rights for such supply, according to the terms of the option in said contract, shall be of effect and binding upon the city and the same shall be forthwith consummated.

Cost and expenses of election, how provided for.

172. SEC. 5. That all extra cost and expenses of such election shall be provided by the board having control of the finances in such city by temporary loan bonds in anticipation of taxes, the same to be placed to the credit of the board of aldermen or common council of such city having charge of such election.

III. Cities of the second class.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

An act concerning the appointment of city clerks in the cities of this state.

P. L. 1882, p. 101.

Approved March 16, 1882.

Appointment and term of city clerk.

173. SEC. 1. That from and after the passage of this act, the board of aldermen, council, common council or other legislative body of any city in this state of the second class, as fixed by an act for the classification of cities in this state, shall appoint a city clerk for such city, in the manner provided by law for the appointment of other city officers by such legislative body; and such city clerk shall hold office for the term now provided by law. [See Sec. 187, *post.*]

Repealer.

174. SEC. 2. 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.

An act to provide for the modifying of the salaries of city officers who hold their office for an indefinite term.

P. L. 1883, p. 214.

Approved March 23, 1883.

Salaries of certain officers in second-class cities may be modified.

175. SEC. 1. That it shall be lawful for the board of aldermen or common council of cities of the second class, by ordinance, to modify, from time to time, the salary of such city officers as hold their offices during good behavior or for an indefinite term; but not more than one change shall be made in any such salary during any fiscal year.

An act relative to the expenses of the departments or bureaus of surveys in cities of the second class.

P. L. 1884, p. 290.

Approved May 5, 1884.

Employment of assistants to city engineer or surveyor.

176. SEC. 1. That it shall be lawful for the board of aldermen or common council of cities of the second class to annually appropriate and expend, for the purpose of employing assistants to the city engineer or

surveyor, such sum or sums, in addition to the amount now limited by law, as such board or council shall deem necessary and expedient for the purpose of efficiently performing the work of the department or bureau of surveys.

An act to authorize cities to extend the term of office and increase the salaries of certain officers therein.

Approved March 13, 1889. P. L. 1889, p. 51.

Term and salary of superintendent of streets and sewers.

177. SEC. 1. That in all cities of the second class of this state, wherein they have an officer known as a superintendent of streets and sewers or superintendent of streets, that the common council or other legislative body of any such city may, at the time of the making of the appointment to such office, and by a majority vote thereof, fix the term for which such appointee may hold such office, which shall not exceed three years; and may, also, at the same time and in a like manner, determine and fix the annual salary of such officer to be paid him during the term so fixed, which salary shall not exceed two thousand dollars per annum.

Repealer.

178. SEC. 2. That all acts, special and general, in conflict herewith, be and the same are hereby repealed, and this act shall take effect immediately.

An act to authorize the election of a city treasurer in cities of the second class, for a longer term than one year.

Approved April 4, 1889. P. L. 1889, p. 170.

Term of city treasurer.

179. SEC. 1. That in all cities of the second class in this state in which the city treasurer is now elected for the term of one year, the said city treasurer shall hereafter be elected and hold office for the term of two years. [See Secs. 183 and 189, *post.*]

Repealer.

180. SEC. 2. That all acts and charter provisions inconsistent herewith, be and they hereby are repealed, and that this act shall take effect immediately.

An act to authorize cities of the second class to extend the term of office and fix the rate of compensation of certain officers therein.

Approved May 3, 1889. P. L. 1889, p. 328.

City physician, appointment, term of office and compensation.

181. SEC. 1. That in all cities of the second class in this state wherein they have an officer known as city physician, the mayor of any such city shall appoint such officer, and the board of aldermen or other legislative body of said city, by a majority vote, confirm said appointment, and at the time of making of the appointment to such office, said mayor shall also fix the term for which such appointee may hold his office, which term shall not exceed three years, and said board may, at the same time, determine and fix the annual salary of such officer, to be paid him during the term so fixed. (*a*)

Repealer.

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

An act to authorize cities of the second class to increase the salary and extend the term of office of the city treasurers.

Passed February 18, 1890. P. L. 1890, p. 13.

Term and salary of city treasurer.

183. SEC. 1. That in any city of the second class of this state wherein the maximum rate of annual salary and the term of office of the city treasurer is fixed and determined by the charter thereof, that the board of aldermen of such city may, at the time of appointment, by resolution, increase the annual salary of such officer to an amount not exceeding two

(*a*) A writ of *certiorari* is not the appropriate remedy for testing the legality of the appointment of a city physician. *Simon* v. *Hoboken*, 23 *Vr.* 367. This act held to be local and special in regulating the internal affairs of cities and therefore unconstitutional. *Helfer* v. *Simon*, 24 *Vr.* 550.

thousand five hundred dollars, and appoint such officer for a term not exceeding three years. [See Sec. 179, *ante*, and Sec. 189, *post*.]

Repealer.

184. SEC. 2. 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.

An act concerning the tenure of office of certain public officers in cities of the second class.

P. L. 1890, p. 269.

Passed April 21, 1890.

Member of board of health and commissioner of public instruction may hold other offices.

185. SEC. 1. That in any city of the second class of this state wherein certain public officers are prohibited from holding any other office of profit or trust under the charter thereof, it shall hereafter be lawful for any member of the board of health or commissioner of public instruction in such city to hold any other office of profit or trust under the charter or municipal government of such city; *provided, however*, that such officer shall receive no compensation or salary as a member of such board of health or commissioner of public instruction.

Repealer.

186. SEC. 2. 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.

An act concerning the appointment and terms of office of certain officers in cities in the second class.

P. L. 1891, p. 135.

Approved March 10, 1891.

City clerks and street commissioners to be appointed for three years.

187. SEC. 1. That in cities of the second class the city clerk and the street commissioner of such cities shall hereafter be appointed for terms of three years, and until the qualification of their successors; it shall be lawful for the common council, board of aldermen, or other governing body of any such city, having the appointment of such officers, to appoint them at any time after the passage of this act for terms of three years as aforesaid, notwithstanding any appointment heretofore made; upon the appointment of either of said officers under the provisions of this act the terms of any city clerk or street commissioner heretofore appointed shall cease; at the time of such appointments the salaries of the officers so appointed shall be fixed as now provided by law. [See Sec. 173, *ante*.]

Salaries.

Repealer.

188. SEC. 2. That this act shall take effect on the twenty-second day of April, one thousand eight hundred and ninety-one; all acts inconsistent herewith are hereby repealed.

An act to authorize the election of a city treasurer in cities of the second class for a longer term than two years.

P. L. 1891, p. 166.

Approved March 17, 1891.

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City treasurer's term extended to five years.

189. SEC. 1. That in all cities of the second class in this state in which the city treasurer is now elected for the term of two years, the said city treasurer shall hereafter be elected and hold office for the term of five years. [See Secs. 179 and 183, *ante*.]

Repealer.

190. SEC. 2. That all acts and charter provisions inconsistent herewith be and they hereby are repealed, and that this act shall take effect immediately.

An act relative to the salaries of mayors in cities of the second class in this state.

P. L. 1891, p. 403.

Approved April 14, 1891.

Salary of mayor increased.

191. SEC. 1. That in all cities of the second class in this state in which the mayor of such cities is elected for the period of two years at a compensation of one thousand dollars per annum, the salary of such mayor shall hereafter be a sum not exceeding two thousand dollars per annum, as shall be fixed by a majority of the common council or other governing board of such city; this act shall not be taken to permit an increase in the salary of any mayor now in office, during his present term.

192. SEC. 2. That all acts and parts of acts and charter provisions inconsistent herewith, be and they are hereby repealed, and that this act shall take effect immediately. Repealer.

An act concerning the constitution of the common council, board of aldermen or other governing body of all cities of the second class in this state.(*a*)

Approved February 18, 1892. P. L. 1892, p. 26.

193. SEC. 1. That in all cities of the second class in this state in which there now are by law three members of the common council, board of aldermen or other governing body, in and for each of the wards of such cities, hereafter the common council, board of aldermen or other governing body of all such cities shall consist of two members in and for each of the wards of such cities, and each of the wards of such cities shall, at the annual city elections of such cities, as hereinafter provided in this act, elect one person as a member of the common council, board of aldermen or other governing body of such cities, who shall hold such office for the term of two years; *provided, however*, that the members of the present common council, board of aldermen or other governing body of all such cities shall be and continue as members thereof for the term for which they were severally elected. Two councilmen or aldermen to be elected from each ward. Proviso.

194. SEC. 2. That in every city of the second class in this state where there now are by law three members of the common council, board of aldermen or other governing body in and for each of the wards of any such city, elected for the term of three years each, upon the expiration of the term of office of every member of the common council, board of aldermen or other governing body in every such city which occurs next after the passage of this act, the office as well as the term of office of every such retiring member shall cease, determine, and end, and then and from thenceforth the common council, board of aldermen or other governing body of every such city of the second class in this state shall consist of two members from each of the wards of such cities. Office of retiring members shall cease at expiration of their terms.

195. SEC. 3. That in all cities of the second class in this state where the office, as well as the term of office, of certain members of the common council, board of aldermen or other governing body of such cities shall cease, determine and end during the year one thousand eight hundred and ninety-two, according to the provisions of the last preceding section of this act, there shall not be any election held in any of the wards of such cities for members of the common council, board of aldermen or other governing body of such cities until the city elections in such cities which shall occur in the year one thousand eight hundred and ninety-three, at which last-mentioned, and all succeeding annual city elections in such cities, there shall be elected in each of the wards of such cities, one person as a member of the common council, board of aldermen or other governing body of such cities, who shall hold such office for the term of two years. When term of office expires in 1892 no election to be held.

196. SEC. 4. That all acts and parts of acts, general, special, public or local, inconsistent with the provisions of this act, be and the same are hereby repealed. Repealer.

An act to authorize common councils, boards of aldermen and other governing bodies in cities of the second class to change the date of their charter elections, to define the beginnings of the terms of officials thereinafter elected and extend the term of certain officials so that the same will begin and end with the fiscal year in said city.

Approved March 8, 1892. P. L. 1892, p. 59.

197. SEC. 1. That it shall and may be lawful for common councils, boards of aldermen or other governing bodies of cities of the second class in this state, by ordinance duly passed as required by its charter, to change Date of charter election may be changed.

(*a*)This act set aside as being special and unconstitutional. *Bennett* v. *Trenton*, 26 *Vr.* 72.

the date of the charter or municipal elections from the day now fixed by law to the second Tuesday in April of the year next after the passage of said ordinance, and yearly thereafter on the said second Tuesday in April. [See Sec. 275, *post.*]

Terms of office to begin with the fiscal year.

198. SEC. 2. That where, in any city, an ordinance has been duly passed changing the date of the charter or municipal election as provided in the first section hereof, it shall and may be lawful for the common council, board of aldermen, or other governing body, to ordain that the terms of all persons chosen at such charter or municipal elections, shall begin with the beginning of the first fiscal year of said city next after their said election; and to further ordain that the terms of all city officials holding office under said city, either by election or by appointment and confirmation, shall be extended to the first fiscal year next after the date at which their terms would have expired if said ordinance had not been passed.

Repealer.

199. SEC. 3. That all acts, or parts of acts whether general or special, inconsistent with the terms of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

P. L. 1894, p. 213.

Approved May 8, 1894.

Act not to apply to certain officers.

200. SEC. 1. That the provisions of the act to which this act is a supplement shall not extend or apply to the official terms of persons elected as members of the board of assessment and revision of taxes in cities where the official terms of such persons, by virtue of the provisions of the charters governing the same, commence at a time prior to the beginning of the fiscal year; and any ordinance heretofore passed in such cities under authority of such act, or otherwise, shall not affect the terms of office of said members of the board of assessment and revision of taxes.

Repealer.

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

An act concerning the government of cities of the second class in this state.

P. L. 1892, p. 119.

Approved March 15, 1892.

Election of president of board of aldermen or common council required.

202. SEC. 1. That in each city of the second class in this state there shall be elected an officer to be the president of the board of aldermen, common council or council of said city, who shall be the president of and act at the meetings of the said board of aldermen, common council or council of said city, and shall have all the powers of an alderman or councilman; but in case of death, disability or absence from any cause, such boards shall have the power to elect one of their number president pro tempore.

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Provisions of this act to be submitted to a vote of the people.

Proviso.

Proviso.

203. SEC. 2. That the provisions of this act shall be submitted to the lawful voters in any of the cities of the second class at the next municipal election after its approval; *provided*, that a resolution for that purpose shall first be adopted by the board of aldermen, common council or council of such city; *provided, however*, that the first president of the board of aldermen, common council or council shall be elected at the municipal election aforesaid, and in case this act shall be accepted in any city at any such election, then the president of the board of aldermen, common council or council so elected shall hold office therein for the term of two years, calculating said term from the time in that year when the term of the members of the board of aldermen, common council or council elected in that year for regular terms in such city shall begin; and in case the voters of such city shall decide at any such election to reject the provisions of this act, then the election of a president of the board of aldermen, common council or council held therein at such election shall be void.

Salary of president.

204. SEC. 3. That the president of the board of aldermen, common council or council elected under the provisions of this act shall receive an

annual salary, payable quarterly, equal to one-half of the salary of the mayor of the city in which the said president resides.

205. SEC. 4. That this act shall not apply to those cities in which the president of the board of aldermen, common council or council is now elected by a popular vote in said cities, or now has a councilman-at-large elected by a popular vote of the entire city. When act not to apply.

An act concerning the appointment of officers in cities of the second class in this state.

Approved March 26, 1892. P. L. 1892, p. 282.

206. SEC. 1. That in all cities of the second class in this state it shall and may be lawful for the common council or other governing board of such cities to pass, enforce, alter and repeal ordinances to take effect within said cities for the following purposes, to wit, to provide for the appointment of one overseer of the poor and three commissioners of appeal in cases of taxation, which said officers shall be appointed by the mayor by and with the consent of the board of aldermen, common council or other legislative body of said city, and such appointment of said commissioners of appeal in cases of taxation shall be made for not less than one year or more than three years; the term for each of said commissioners of appeal in cases of taxation shall be determined and fixed by the mayor at the time of making such appointment, and when more than one commissioner is appointed at one time, the several appointees may be appointed and confirmed and hold their respective offices for different periods of time within the limit aforesaid, and not more than a bare majority of such board of commissioners or officers shall at any time be members of one political party, and such officers shall hold their respective offices until their successors shall be appointed and qualify; and such officers on being appointed under this act shall perform and discharge the same duties pertaining to their respective offices as is now required by law in the city in which they are appointed. Common council of second-class cities may empower mayors to appoint an overseer of the poor and three commissioners of appeal. Terms of commissioners to be fixed by mayor. Duties of such officers.

207. SEC. 2. That the provisions of this act shall apply to the appointment of such officers to fill any and all vacancies arising from death, resignation, removal or other cause that may hereafter arise in any of said cities, and that upon the happening of any such vacancy or vacancies the said commissioners of appeal in cases of taxation, may be appointed for the unexpired term in the manner in the first section of this act set forth. Vacancies in commissioners of appeal, how filled.

208. SEC. 3. That the said commissioners so appointed under this act shall receive such salary and compensation as the city council or other governing board of such city shall by ordinance prescribe, and shall be paid in the manner now provided by law in such cities. Salary and compensation of commissioners.

209. SEC. 4. That the offices of such commissioners of appeal in cases of taxation, now existing in such cities shall be abolished upon the appointment of the said officers under this act; *provided*, that in cities having more than two wards there shall be no more than one of the said commissioners of appeal in cases of taxation appointed from the same ward. Office of previous commissioners abolished.

210. SEC. 5. That all acts, general and special, inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately. Repealer.

An act authorizing the board of aldermen, common council or other governing body in cities of the second class to fix and determine by resolution the compensation of recorders.

Approved March 28, 1893. P. L. 1893, p. 491.

211. SEC. 1. That the board of aldermen, common council or other governing body in the cities of the second class of this state shall have power by resolution to fix and determine the amount of compensation to be paid to the recorder of such city; *provided, however*, that in such cities of ten thousand but not exceeding twenty thousand inhabitants, the annual salary of the recorder shall not exceed one thousand five hundred dollars; Compensation of recorder, how fixed. Proviso.

and in all such cities of twenty thousand but not exceeding thirty-five thousand inhabitants, the annual salary of the recorder shall not exceed two thousand dollars; and in all the other of said cities of the second class the annual salary of the recorder shall not exceed two thousand five hundred dollars.

Salary shall not be increased or diminished.

212. SEC. 2. That the salary of any such recorder fixed, as authorized by section one of this act, shall not be increased or diminished during his term of office.

Repealer.

213. SEC. 3. That all acts and parts of acts, whether general, public, private or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

An act providing for the appointment of clerks to recorders in certain cities of the second class in this state and defining their duties.

P. L. 1894, p. 363.

Approved May 16, 1894.

Recorder may appoint police clerk.

214. SEC. 1. That the recorders holding the police courts existing in any city of the second class in this state, having a population of forty-three thousand or over, shall have power and are hereby authorized to appoint in and for each of the police courts of said city a clerk, whose duty it shall be to attend the sessions of the court to which he may be appointed or assigned, and to the examination, trials and proceedings had therein, before whatever justice or judge may hold or sit in the same; such clerk shall, under the direction of the court, keep a brief record of all matters which shall come before the same; he shall, unless otherwise expressly directed by law, receive all fees and penalties imposed in the court to which he shall act, and shall account for and pay the same over to the proper officers or authorities within forty-eight hours after his receipt thereof; he shall keep a record of such fines and penalties and of the disposition thereof in books to be provided for that purpose by the board hereinafter named, and shall perform such other duties and services as the court or the justice or judge aforesaid may require; he shall receive a salary of nine hundred dollars per annum, to be paid in the same manner as now provided for by law for the payment of city officers; he shall be required to enter into a bond to the said city in its corporate name in the sum of three thousand dollars, with at least two sufficient sureties, to be approved by the board or body of such city having control of the finances thereof, conditioned for the faithful performance of his duty, which bond shall be renewed annually; every such clerk appointed as aforesaid shall hold office during good behavior, and shall be removed for cause only after opportunity to be heard respecting the cause assigned for removal.

Duties of clerk.

Salary.

Clerk shall give bond.

Tenure of office.

City may borrow money to pay salary of such clerk.

215. SEC. 2. That if, when this act shall go into effect in any such city, there be not sufficient money on hand out of which to pay any expenses rendered necessary thereby, the board or body thereof having control of the finances shall borrow sufficient money therefor, by means of a temporary loan or otherwise, in anticipation of the tax levy next to be made in such city, and shall therein make provision for the payment thereof.

Repealer.

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

An act concerning the terms of certain officers of certain cities of the second class.

P. L. 1895, p. 390.

Approved March 21, 1895.

Term of officers appointed by governing body, how limited.

217. SEC. 1. That in all cities of the second class in this state having a population of less than thirty-five thousand where the charter of such city shall provide for the election or appointment of certain officers of such city by the common council, board of aldermen or other legislative body thereof, it shall be unlawful for such common council, board of aldermen or other legislative body to elect or appoint any such officer for a longer term than the length of the term for which the members of said common council, board of aldermen or other legislative body are themselves elected.

An act concerning certain cities of the second class, permitting the consolidation of officers and relating to the election, appointment, terms, duties and compensation of officers.

Approved March 22, 1895. P. L. 1895, p. 421.

218. SEC. 1. That the common council, board of aldermen or other legislative body of any city of the second class in this state having a population of less than thirty-five thousand shall have power from time to time, by ordinance or ordinances, to consolidate any two public offices of said city or of any of its departments and enact that the duties of the offices so consolidated shall thereafter be performed by one and the same person, and shall have power by such ordinance or ordinances to fix and determine the nature of said duties, to designate the name or names by which said officers shall be known when consolidated, to fix the length of the term for which the holder thereof shall be elected or appointed, which shall in no case exceed the term of two years, to determine the amount and nature of the bond to be required from the holder of such offices when consolidated, if any, the compensation to be paid him and the time and manner of paying the same, which compensation shall be a definite salary and shall in no case exceed the compensation formerly allowed the officer holding the one of said offices so consolidated, for which the greater compensation or salary was formerly paid.

Legislative body shall have power to consolidate offices.

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Designate the name and fix terms and compensation of officers.

219. SEC. 2. That such common council, board of aldermen or other legislative body in any such city shall also have power, from time to time, by ordinance or ordinances, to fix and determine the duties appertaining to any public office therein or in any department thereof; the compensation that shall be paid any person holding any such office and the time and manner of paying the same, which compensation shall be a definite salary and may be fixed at any amount not exceeding the amount now allowed said officers respectively, the term for which they shall be elected or appointed, which shall in no case exceed the term of two years, and the amount and nature of the bond to be required from such officer, if any.

May determine the duties of any city official, fix amount of salary and term of office.

220. SEC. 3. That this act shall be construed to apply to and include all offices in any such city or in any of its departments, the salary or compensation of which is paid directly or indirectly from the funds of said city, and all offices therein the holders of which are chosen by the electors of said city at its charter elections, or by said common council, board of aldermen or other legislative body or by any board, commissioners or similar public body of said city, the members of which are chosen by said common council, board of aldermen or other legislative body, excepting only the members of the board of education of any such city and all persons employed as principals, teachers or janitors in the public schools of said city; that any two of said officers may be consolidated as provided for in the first section of this act, and if any office, the holder of which is now chosen by the electors of said city, at its charter election, shall be consolidated with one formerly filled in some other manner, then such consolidated offices, by the name or names to be chosen to designate them as above set forth, shall be filled in the usual manner by the electors of such city at its charter elections, and if any office, the holder of which is now chosen by said common council, board of aldermen or other legislative body aforesaid, shall be consolidated with one the holder of which is now chosen by said board, commissioners or similar public body aforesaid, then such consolidated offices, by the name or names to be chosen to designate them, as above set forth, shall be filled by the said common council, board of aldermen or other legislative body, but where both of the offices so consolidated were formerly filled in the same manner by the same body or persons, then no change shall be made in the manner of filling the same when they are consolidated.

Act includes all offices except those in public school department.

How elective and appointive offices may be consolidated and designated.

221. SEC. 4. That such common council, board of aldermen or other legislative body of said city, after passing any ordinance or ordinances which they are authorized to pass by this act, may declare vacant and vacate any and all offices in relation to which such ordinance or ordinances

Offices may be declared vacant.

shall have been passed, and persons may then be chosen, in the manner above set forth, to fill such offices under the terms and provisions of such ordinance or ordinances at the compensation therein fixed; *provided, however*, that persons holding offices to which they have been elected directly by the electors of such city at its charter election, may continue in office during the term for which they were elected under the terms existing at the time of their said election.

Proviso.

Entry upon duties construed to be acceptance of office.

222. SEC. 5. That the entry upon the duties of any such office or offices by any person duly chosen thereto, shall be construed to be an acceptance of the duties of said office or offices, as determined by said ordinance or ordinances, at the compensation therein fixed, anything in the charter of any such city or any supplement thereto or amendment thereof, or in any general or special law, to the contrary notwithstanding.

Repealer.

223. SEC. 6. That all acts and parts of acts, general or special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect on the fifteenth day of May, one thousand eight hundred and ninety-five.

2. STREETS AND SEWERS.

An act concerning street and sewer improvements in cities of the second class.

P. L. 1883, p. 203.

Approved March 23, 1883.

Proceedings in cities of second class in case report in matter of street or sewer improvement is defective, &c.

224. SEC. 1. That whenever any report made by commissioners or by the proper board of assessments in any city of the second class, in any matter of street or sewer improvement, shall be defective in matter of form, or shall be referred back for amendment or alteration, it shall be lawful for such commissioners or proper board of assessments to correct the same and file an amended report, and such amended report may be considered and treated as the original and proper report in such case, and may be adopted and confirmed at any time within three months from the filing thereof; and the proceedings for such improvement shall not abate but may be proceeded with as if said report had been filed in due time under the provisions of the charter of such city.

An act to authorize and empower the common council, board of aldermen or other governing body in cities of the second class to set aside certain moneys into a fund to be called the "special street improvement fund," and to provide for the expenditure thereof.

P. L. 1890, p. 95.

Approved March 20, 1890.

Governing body authorized to set aside moneys for a street improvement fund.

225. SEC. 1. That it shall and may be lawful for the common council, board of aldermen, or other governing body of any city of the second class in this state, by a vote of three-fourths of all its members, to set aside from the moneys received by said city from licenses issued either for the sale of spirituous, vinous or malt liquors or for any other licenses, a sum not to exceed fifty thousand dollars, which said sum when so set aside shall be known and designated as "the special street improvement fund" of such city or municipality.

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Fund, how used.

226. SEC. 2. That thereafter it shall and may be lawful for the said city council, board of aldermen or other governing body to expend, use and employ the said fund or any part thereof in paving, macadamizing or improving the streets of said city in such manner, upon such terms, and under such conditions as the said council, board of aldermen or other governing body shall by a three-fourths vote provide; *provided, however*, that such fund shall be used exclusively in paving, macadamizing or improving streets which have never before been paved or macadamized.

Proviso.

Repealer.

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

An act to enable cities of the second class in this state having a population of less than fifty thousand inhabitants to issue bonds for street and sewer improvements and to provide for the apportionment and payment thereof.

Approved May 17, 1894. P. L. 1894, p. 438.

Assessments for street and sewer improvements may be paid, when.

228. SEC. 1. That whenever any assessment for benefits resulting from any street or sewer improvement to be hereafter made by order of the common council or other governing body of any city of the second class in this state having a population of less than fifty thousand inhabitants shall have been duly ratified and confirmed, any owner of land or premises so assessed may, within sixty days after the public notice of such assessment, as is now required by law, shall have been published, pay to the proper officer of such city the amount so assessed upon said land or premises of such owner and be thereby relieved from all liability to future assessment in respect of said improvement.

Governing body may issue bonds for balance.

229. SEC. 2. That it shall be lawful for the common council or other governing board of such city to issue bonds of the said city in manner and form as other bonds of such city are now authorized by law to be issued, to an amount sufficient to pay the balance of the cost of such improvement from the proceeds arising from the sale of said bonds; said bonds shall be payable during a period not exceeding ten years from their issue, shall bear interest not exceeding six per centum per annum, payable semi-annually; shall be exempt from taxation in the hands of the holders of the same, and shall not be sold for less than their par value; it shall be the duty of the common council or other governing body of such city to apportion the entire amount of the bonds so issued among the owners and upon the lands along the lines of the street or section of street so improved, upon the same basis as the original apportionment of cost, excepting therefrom all lands the owners of which shall have paid his, her or their share of costs as hereinbefore provided; the said apportionment of bonds shall be delivered immediately upon their issue to the city clerk of such city, who shall certify the same to the official receiving the annual taxes, and the same shall be recorded in books to be kept for that purpose by said city clerk and said official receiving the annual taxes, and such record shall thereafter be competent evidence of such apportionment and of the amounts assigned to the several tracts of land embraced therein; it shall be the duty of the said city clerk, each year in the month of May, to ascertain the amount of interest which will fall due on said bonds on or before the time fixed by law for the payment of taxes in the next succeeding year, and to certify the same, together with one-tenth of the entire principal of the bonds issued, to the assessors of the said city, whose duty it shall be to assess the same upon the basis of the apportionment of amount of bonds and upon the property embraced in said apportionment; and the several sums so from year to year assessed shall have the same effect and be collected at the same time and in the same manner as other taxes are collectible by law within such city for county and city purposes; but until the actual levy of such assessment, neither the liability to assessment in this section created nor the apportionment nor record thereof shall be held or construed to be nor to create a subsisting lien or incumbrance upon the title to the lands embraced in said apportionment; and all moneys collected in pursuance of this section are hereby pledged to the payment of the principal and interest of the bonds aforesaid, and shall be used for no other purpose.

Bonds to be apportioned among owners.

Clerk shall certify interest falling due to assessors who shall assess same.

3. WATER-SUPPLY.

An act authorizing the issue of additional bonds for the extension and maintenance of water works in certain cities in this state.

Approved March 13, 1883. P. L. 1883, p. 98.

Boards may issue additional bonds to extend water works, &c.

230. SEC. 1. That it shall be lawful for any board of water commissioners in any city of the second class of this state to issue, in addition to

bonds already issued, bonds in the sum not to exceed twenty-five thousand dollars, at a rate of interest to be fixed by said board, not, however, to exceed five per centum; and the proceeds of the sale of said bonds shall be used for the laying of pipes and for the extension of the works, and for the same objects and purposes generally as is provided by the act creating such board of water commissioners and the acts amendatory thereof.

An act to enable second-class cities in this state to improve and extend the water-supply in said cities and to issue bonds for the payment thereof.

P. L. 1893, p. 439.

Approved March 21, 1893.

When lawful to purchase additional land, &c., to extend water-supply.

231. SEC. 1. That in any city of the second class in this state in which the water works are owned and operated by the city authorities it shall and may be lawful for the common council, board of aldermen, board of public works, or other governing body having control and management of such water works, by whatever name such governing body shall be called, whenever they shall deem it expedient, to purchase and acquire such additional land, property, water source, water rights and privileges as they shall consider advisable for the improvement and extension of the water-supply of such city, either at or near the present water works or at any other place in this state within twenty miles of such city, and to sink wells and to erect thereon reservoirs, pumping stations and such buildings as may be deemed advisable by said common council, board of aldermen, board of public works or other governing body for that purpose, and to purchase and erect such pumps, machinery and other appliances as shall be deemed advisable, and to lay pipes for conduits therefrom to connect with the pipes now laid within said city and to lay additional pipes in and along the streets of such city for the purpose of extending the water-supply therein, and that it shall and may be lawful for said city to acquire the said land, water rights or property, in fee-simple or any lesser estate or right therein.

May purchase lands by agreement or direct condemnation thereof.

232. SEC. 2. That whenever in the judgment of the common council, board of aldermen, board of public works or other governing body of any such city, additional water facilities are or may be desired for public use it shall and may be lawful for such council, board of public works or other governing body to authorize the chief engineer of the water department of such city, or other person or persons appointed by said council, board of aldermen, board of public works or other governing body, to treat with the owners of such lands and water rights as may be required to be used for water purposes; and in case it should, in any case, be found that suitable property cannot be purchased by agreement with the owner or owners, or in case the price demanded by such owner or owners is, in the judgment of the common council, board of public works or other governing body, in any case exorbitant and more than a fair equivalent therefor, then the said chief engineer or other person or persons appointed by said common council, board of public works, board of aldermen or other governing power shall report the same with a description of the lands to the common council, board of public works or other governing body, and the said council, board of public works or other governing body may order or direct the condemnation thereof.

When and by whom commissioners appointed.

233. SEC. 3. That if the said common council, board of public works or other governing body shall in any case direct the condemnation of any lands or water rights, as provided for in the preceding section, it shall be the duty of the city council forthwith to apply to one of the justices of the supreme court of this state for the appointment of three commissioners to make an appraisement of the value of the lands or water rights so to be condemned for the purpose aforesaid, and of the damages which any owner or owners of such lands or water rights may suffer by reason of the taking thereof; *provided*, that at least four days' previous notice shall be given by service, either personally or by leaving the said notice at the dwelling-house or usual place of abode of each owner or owners, or in case of absence from the state, or legal disability of such owner or owners, such

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notice shall be published in two or more newspapers published and circulating near the lands or water rights in question, for two weeks.

Proceedings by commissioners.

234. SEC. 4. That the said commissioners appointed by said justice, having taken an oath faithfully and impartially to execute the duties of their office, shall forthwith proceed to estimate and determine the fair value of the lands and real estate or water rights to be taken and condemned as aforesaid, and the damage which the owner or owners thereof will suffer by reason of the taking thereof, first having given at least ten days' notice in writing to the said owner or owners, either personally or by leaving the same at his or her place of abode, of the time and place when and where they may be heard in relation to the matter; in case any owner shall be an infant, married woman, non compos mentis or absent from the city or place where such condemnation proceedings are taken, or be from any cause incapacitated to act in this behalf, then notice of the time and place and object of said meeting shall be advertised or other notice given as the said justice may direct, and said meeting or meetings may be adjourned from time to time at the discretion of said commissioners; as soon as they shall have determined upon said valuation, they shall make and sign a certificate thereof and file the same in the office of the city clerk of such city or such other place as the said justice may direct, immediately upon the payment to said owner or owners of the amount of said valuation, or in case he or they will not or cannot receive the same, upon the deposit of the same in such bank or institution as the said justice may direct, the title to and the right of possession of such property or water rights shall immediately become vested in such city or place; and any owner conceiving himself or herself aggrieved by the proceedings of said commissioners may appeal therefrom to the supreme court of this state at any time within sixty days after the filing of said certificate, and the said court shall thereupon order a trial by jury to assess the value of said property and the said damages, which trial shall be conducted in all respects as in other cases of trial by jury, and the final judgment of the said court upon the verdict rendered therein shall be conclusive upon all parties as to the said valuation and damages, and the amount already paid or deposited as aforesaid shall be increased or diminished accordingly.

Proceedings on appeal.

Compensation of commissioners, how fixed and paid.

235. SEC. 5. That the commissioners so to be appointed by the said justice of the supreme court shall receive such compensation for their services as the said justice shall order and direct, and the same shall be paid, as well as all other expenses incident to the condemnation proceedings, from the funds provided as herein directed for the purchase of land and water rights and the erection of buildings and the laying of water pipes.

236. SEC. 6. [Amended by Sec. 240, *post.*]

Supply of water by another municipality.

237. SEC. 7. That such be and is hereby authorized to contract with the authorities of any other municipality for furnishing water to the citizens and the extinguishment of fires.

Sinking fund created for redemption of bonds, &c.

238. SEC. 8. That any such city shall by ordinance create, establish, maintain and regulate a sinking fund for the redemption of the bonds created by this act, and define the powers and duties of the board or committee in charge thereof, to which shall be added annually not less than five per centum of the gross receipts from the water works of said city.

Repealer.

239. SEC. 9. 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 this act shall take effect immediately.

Amendatory act.

Approved March 20, 1895. P. L. 1895, p. 378.

240. SEC. 1. That section six of the act entitled "An act to enable second-class cities in this state to improve and extend the water-supply in said cities and to issue bonds for the payment thereof," approved March twenty-first, one thousand eight hundred and ninety-three [see Sec. 236, *ante*], be and the same is hereby amended so as to read as follows:

Governing body may issue bonds for improving and extending water-supply.

[That the common council, board of aldermen or other governing body having control and management of the finances of said city, on the application of the governing body having the control and management of the water-supply in said city, be and hereby [is] authorized and required, for the purpose of improving and extending such water-supply and the purchase and acquisition of land and water rights therefor and the construction of buildings and reservoirs thereon and the purchase and erection of pumps, machinery and other appliances and the laying of pipes in and along the streets of such city, to issue bonds in the name and under the seal of the city, to be denominated on their face "water bonds," in addition to any heretofore authorized by law, to any amount not exceeding six hundred thousand dollars; such bonds may be registered or coupon bonds, and shall bear a rate of interest not exceeding five per centum and shall be redeemable at any time not less than five nor more than thirty years from their date, in the discretion of said board, which bonds may be sold at public or private sale for the best price they can obtain for the same, but not under the par value thereof; all bonds issued as aforesaid shall be signed by the city treasurer and countersigned by the mayor of such city, and all the real estate within such city shall be liable for the payment of the principal and interest that may become due on the bonds to be issued by virtue of this act.]

Shall not be sold for less than par.

Repealer.

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

An act to enable cities of the second class to purchase land and construct and operate water works for the purpose of supplying their inhabitants with pure and wholesome water.

P. L. 1895, p. 287.

Approved March 14, 1895.

Governing body may acquire land and construct water works.

242. SEC. 1. That it shall and may be lawful for the common council, board of aldermen or other governing body of any city of the second class in this state which does not own, possess, control or operate its own reservoir or water works to purchase and acquire the necessary land in or adjacent to said city for the construction of a reservoir and necessary water works, and to erect and construct on the lands so purchased an adequate reservoir for the supplying of pure and wholesome water to such city.

May lay mains, &c., in and along roads and streets in adjoining municipalities.

243. SEC. 2. That for the purpose of connecting the said reservoir and water works with the water pipes and mains in the streets of said city, the common council, board of aldermen or other governing body shall have power to lay all necessary pipes, mains and conduits to, through and along any and all public roads, streets or thoroughfares in any village, town, township, city or other municipal division between said reservoir and said city; *provided*, *however*, that the consent of the governing body of such village, town, township, borough, city or other municipal division in which such roads, streets or thoroughfares are located shall, by proper resolution, be given, upon application in writing of such city, designating in such application the streets, roads or thoroughfares through which it is desired that said pipes, mains or conduits shall be laid.

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May connect works with reservoir of any other city or company.

244. SEC. 3. That for the purpose of properly connecting said reservoirs and works with the pipes and mains of any other reservoir operated by any other city or company with which said city may contract for a supply of pure and wholesome water, or with any stream, river or water-shed which it may be desirable to tap for the purpose of an intake of such water to the reservoir so constructed or to be constructed by said city, the said common council, board of aldermen, or other governing body of such city shall have power to lay the necessary pipes, mains and conduits in, to, through and along any and all roads, streets or other thoroughfares of any village, town, township, borough, city or other municipal division, between said reservoir of any other city or water company, or the stream, river or water-shed aforesaid; *provided*, that a designation of such streets, roads or thoroughfares shall first be presented to the governing body of such village,

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town, township or borough or city, and a resolution of such governing body be passed approving of such designation.

245. SEC. 4. That when constructed and in operation the reservoir, water works and other works connected with said water-supply shall be and remain in the charge, custody and control of the properly-constituted water board or water commissioners, or other board of a like character having in charge the management and control of the water-supply of said city. Works, &c., shall be and remain in charge of water board.

246. SEC. 5. That if for any reason the common council, board of aldermen or other governing body of such city cannot agree with the owner or owners of any lands required for the construction of such reservoir or other works connected with such water-supply and necessary for the proper operation thereof, or when by reason of legal incapacity or absence of such owner or owners no such agreement can be made, a particular description of the land so required shall be given in writing, under oath or affirmation of the city engineer, and the name or names of the occupant and owner of the premises, and the residence of the owner, if the same can be ascertained, to one of the justices of the supreme court, who shall cause said city to give notice thereof to the persons interested, if known and in the state, or if unknown or out of the state, to make publication thereof as he shall desire for any term not less than ten days, and to assign a particular time and place for the appointment of the commissioners hereinafter mentioned, at which time upon satisfactory evidence to him of the service or publication of such notice aforesaid, he shall appoint, under his hand and seal, three disinterested, impartial and judicious freeholders, residents of the county in which the lands are situated, commissioners to examine said lands and assess the damages upon such notice to be given to the persons interested as shall be directed by the justice making the appointment, to be expressed therein not less than ten days; and it shall be the duty of the said commissioners, having first taken and subscribed an oath or affirmation before some person duly authorized to administer an oath faithfully and impartially to examine the matter in question, and to make a true report thereon according to the best of their skill and understanding, to meet at the time and place appointed and to proceed to view and examine the said land, and to make a just and equitable estimate or appraisement of the value of the same, and an assessment of damages to be paid by such city for such land, which report shall be made in writing under the hands and seals of the said commissioners, or any two of them, and filed within ten days thereafter together with the aforesaid description of the lands and the appointment and oaths and affirmations aforesaid in the clerk's office of the county in which the land is situate, to remain of record therein; and thereupon and on payment or tender of payment of the amount awarded as hereinafter provided, said city is hereby empowered to enter upon and take possession of said lands for the purposes aforesaid and the said report or a copy thereof, certified by the clerk of said county, and proof of payment, or tender of the amount awarded, shall at all times be considered as plenary evidence of the right of such city to have, hold, use, occupy, possess and enjoy the said land, or of the said owner or owners to recover the amount of said valuation with interest and costs in an action of debt in any court of competent jurisdiction in a suit against the city if it neglect or refuse the same for thirty days after demand made in writing upon its common council, board of aldermen or other governing body; another said justice of the supreme court shall upon application of either party and on reasonable notice to the others tax and allow such costs, fees and expenses to the commissioners, clerks and other persons performing any of the duties prescribed by this section as he shall think equitable and right, which shall be paid by the city; *provided*, that should the owner of such lands or the city feel aggrieved by the decision of the commissioners aforesaid he, she or it may appeal to the circuit court in the county wherein the said lands are situate. Proceedings in cases of condemnation of lands. Proviso.

247. SEC. 6. That the appeal from the decision of the commissioners shall be made in writing and in the form of a petition to said court, and Proceedings in cases of appeal.

filed with the clerk of the circuit court of the county where said lands are situate, and notice in writing of such appeal shall be given to the opposite party within ten days after the filing of said petition, which proceeding shall vest in the circuit court full right and power to hear and adjudge the same and to direct a proper issue for the trial of said controversy to be formed between the parties, and to order a jury to be struck and a view of the premises to be had, and the said issue to be tried at the next term of said court; and it shall be the duty of said jury to assess the value of said land and damages sustained, and if they shall find a greater sum than said commissioners have awarded, the judgment thereon, with costs, shall be entered against said city; but if said jury shall be applied for by the owner of the land, and shall find a less sum than said city shall have offered or said commissioners awarded, the costs shall be paid by said applicant and deducted out of the sum found by said jury; but such application shall not prevent said city from taking said land upon filing the report aforesaid;

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provided, that in no case whatever shall said city enter upon or take possession of said lands until they have paid to the party or parties entitled to receive the same the amount assessed by said commissioners as the value of said lands and damages in case the report is not appealed from, or if appealed from then the amount which shall be found by the jury by whom the issue shall be tried, but in case the party or parties entitled to receive the same shall be out of the state or under any legal disability then the payment of the amount assessed or found as aforesaid into the circuit court of the county wherein such lands lie shall be deemed a legal and valid payment;

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and provided further, that the party or parties entitled to receive the amount assessed by said commissioners may upon tender thereof receive the same without being barred thereby from his or her appeal; and on tender or payment of the money into court in case it be refused as aforesaid, or in case said city shall appeal from the finding of the commissioners, then said city upon payment of the amount so assessed or found as aforesaid into said circuit court shall be empowered to enter upon and take possession of said lands and proceed with the work of constructing said reservoir and incidental works.

Bonds may be issued to pay for lands, &c.

248. SEC. 7. That for the purpose of defraying the cost and expense of the construction of said reservoir and incidental works, and the purchase or condemnation of the necessary lands as aforesaid and the purchase of the necessary pipes, mains, and conduits as aforesaid so as to enable the said city to operate a perfect system for the supplying of pure and wholesome water to its inhabitants, it shall and may be lawful for said common council, board of aldermen or other governing body of such city, to cause to be issued under the hand of its mayor and the seal of said city bonds to an amount not to exceed the sum of five hundred thousand dollars, payable in not less than twenty years from date of issue and bearing interest at a rate not to exceed five per centum per annum, pledging the faith and credit of said city for the payment thereof, which bonds shall be sold to the highest bidder therefor; and for the purpose of retiring said bonds at maturity the assessor of said city shall cause to be inserted in the annual tax levy of each year a certain percentage on the gross value of assessable property in said city, to be appropriated on collection thereof as a sinking fund, to meet and retire said bonds as they mature, and in the order of their maturing.

Sinking fund shall be established.

Repealer.

249. SEC. 8. That all acts and parts of acts inconsistent with the provisions of this act be and they are hereby repealed, and that this act shall take effect immediately, but its provisions shall remain inoperative in any such city of this state until assented to by a majority of the legal electors thereof, voting at an election to be held in said city at any time to be fixed by the board of aldermen, common council or other governing body of such city, of which election the city clerk of said city shall cause public notice to be given by advertisements, signed by himself and set up in at least twenty places in said city and published in one or more newspapers printed therein, setting forth the time and place of holding such election and published for at least six days prior to the day of election;

Act to be assented to by voters.

and said election ballots shall be printed or written, or partly printed and partly written, on all of which ballots shall be the words, "for the adoption by this city of the provisions of the act entitled 'An act to enable cities of the second class to purchase land and construct and operate water works for the purpose of supplying their inhabitants with pure and wholesome water;'" and "against the adoption by this city of the provisions of the act entitled 'An act to enable cities of the second class to purchase land and construct and operate water works for the purpose of supplying their inhabitants with pure and wholesome water;'" and the elector shall signify his election by scratching or erasing either of said propositions from his ballot as deposited in the ballot-box, the ballot when counted to be counted for the unscratched or unerased proposition only, and against the scratched or erased proposition; and if a majority of the legal electors voting at said election shall cast their ballots in favor of the adoption of said act then the said act, after the declaration of such result by the common council, board of aldermen or other governing body upon the returns submitted to said body by the election boards, shall go into effect immediately and become operative in said city.

When and where election shall be held and conducted.

250. SEC. 9. That said election shall be held at the usual places of holding the annual charter election in said city, and may be held upon the same day with said charter election, if desirable to said common council, board of aldermen or other governing body, and the polls shall be open during the same time as prescribed in charter elections, and said election shall be conducted by the proper election officers of said city for the time being in the manner provided by law for conducting elections, and such election officers shall return to the board of aldermen, common council or other governing body of said city, a true and correct statement in writing of the result of such election, the same to be entered at large upon the minutes of said body.

4. WARDS.

An act to authorize cities of the second class to divide one or more wards, and to form new wards therefrom.

Passed March 25, 1890. P. L. 1890, p. 114.

Cities may divide wards.

251. SEC. 1. That in any city of the second class of this state the common council, board of aldermen or other legislative body thereof, shall have power and authority, by ordinance passed by a three-fourths vote of all the members thereof, and with the approval of the mayor, to divide one or more wards, as now established, of any such city, into two wards, so that each ward, as now established, when divided, shall make two wards; *provided, however*, that no more than two wards in any of said cities shall be so divided in five years.

Proviso.

Officers of old wards to continue in office.

252. SEC. 2. That the officers of the old ward or wards so divided shall continue to act as such officers for the remaining part of the old ward or wards, and that the common council or other legislative body of any such city shall appoint election officers for the new ward or wards so created, and shall also fix and determine the election districts in such new wards, and also in the old wards so divided; and that at the next general charter election following such division, councilmen or aldermen, commissioners of public instruction or school commissioners, freeholders, constables and all other officers to be elected for the wards of any such city, shall be elected in the same manner for the new ward or wards, and when the terms of any such officers expire at different periods, they shall be elected, at said election, for short and long terms respectively.

Rights and duties of officers of new wards.

253. SEC. 3. That all such officers elected for the new ward or wards of any such city shall exercise the same rights and privileges and perform the same duties as like officers elected from the old wards.

5. MISCELLANEOUS ACTS.

An act to authorize cities of the second class to fund their indebtedness.

P. L. 1883, p. 59.

Approved March 2, 1883.

Cities of second class may issue bonds to certain creditors.

254. SEC. 1. That the common council or other body having control of the finances of any city of the second class in this state having a lawful indebtedness whose payment is unprovided for, and which the available funds of said city are insufficient to pay, may issue bonds to the creditors to whom said indebtedness is owing, in lieu of said indebtedness, said bonds to be issued in any manner provided by the charter of said city for the issuing of other bonds, to be made payable in five years from their date, to bear not more than five per centum interest, and to be exchanged for not less than par value.

Unlawful to incur further indebtedness.

255. SEC. 2. That from and after the passage of this act it shall not be lawful to incur any further temporary or floating indebtedness, unless the payment of the same shall have been already provided for by the taxpayers.

An act concerning the government of cities of the second class.

P. L. 1883, p. 100.

Approved March 13, 1883.

Fiscal year may be changed.

256. SEC. 1. That it shall be lawful for cities of the second class in this state, by ordinance, to alter, change and establish the time of the beginning and ending of the fiscal year in any such city.

Repealer.

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

An act respecting the expenditure of money in cities of the second class in this state.

P. L. 1892, p. 202.

Approved March 23, 1892.

Mayor must approve resolution involving the expenditure of more than $50.

Proviso.

258. SEC. 1. That in all cities of the second class in this state no resolution or motion involving the expenditure of money adopted or passed by the board of aldermen or common council thereof, when the amount thereof exceeds the sum of fifty dollars, shall be operative unless the same be approved by the mayor of such city; *provided, however*, that if the said mayor veto the same or refuse or neglect to veto or approve the same within five days after the adoption of the same, the board of aldermen or common council of such city, after the expiration of said time and by a vote of three-fourths of all the members thereof, may order the payment of the money in such resolution or motion provided, notwithstanding such veto or refusal or neglect to veto or approve any such resolution or motion.

Repealer.

259. SEC. 2. That all acts or parts of acts, so far as they conflict herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

An act concerning unexpended appropriations voted for and raised in cities of the second class.

P. L. 1892, p. 381.

Approved March 31, 1892.

Unexpended balances of appropriations, how expended.

260. SEC. 1. That it shall be lawful for the common council or other legislative body of any city of the second class in this state, to carry forward by resolution any unexpended appropriation, or balance of any appropriation, of money heretofore raised and voted for by the inhabitants of any such city for any purpose whatsoever, and to expend the same in any subsequent year to that in which such appropriation or appropriations were voted upon and raised, for the same or similar objects to those for which such appropriations were voted for; *provided*, said resolution shall state the amount so carried forward and the specific object or objects or fund to which the same is to be appropriated; and such appropriations and balance of appropriations so carried forward shall be used and ex-

Proviso.

pended exclusively for the purposes mentioned and prescribed in such resolution; said resolution shall not be passed until after the close of the fiscal year in which such appropriations shall be voted for.

An act relating to the consolidation of corporations, organized as gas light companies, electric light companies, and electric light, heat and power companies in cities of the second class in this state, which heretofore have been incorporated under general or special laws of this state.

Approved May 7, 1892. P. L. 1892, p. 403.

Gas and electric light, heat and power companies in cities of the second class may consolidate.

261. SEC. 1. That it shall and may be lawful for any corporation or corporations of this state, incorporated under general or special laws, whose object is to make and sell gas, for the purpose of lighting the streets, buildings and other places in cities of the second class in this state where such companies are now established, and any corporation or corporations of this state, in said cities, whose objects are the manufacturing, generating, storing, dealing in, furnishing and supplying of electricity for light, heat and power, and also carrying on of any and all business in connection therewith, and concerning the sale and supply of the said light, heat and power to persons desiring to purchase the same, and of selling and dealing in appliances necessarily used in connection with the same and pertaining thereto, to consolidate and merge such companies, in said cities, and their corporate rights, franchises, powers and privileges, into a single corporation in the manner following, so that by virtue of this act such corporations, in said cities, will be consolidated and merged into one company, and so that all the property, rights, franchises and privileges by law vested in or enjoyed by such corporations so merged shall be transferred to and vested in the new corporation into which said consolidation and merger shall be made.

How consolidation and merger shall be made.

262. SEC. 2. That such consolidation and merger of said corporations shall be made in the same manner as provided for the consolidation and merger of certain corporations of this state by an act of the legislature of this state entitled "An act relating to the consolidation of corporations formed under the act entitled 'An act concerning corporations,' approved April seventh, one thousand eight hundred and seventy-five, and the acts amending and supplementing the same, for the purpose of the improvement and sale of lands, the construction, maintenance and operation of hotels and carrying on the business of an innkeeper, and the transportation of goods, merchandise or passengers upon land or water," which said act was approved April seventeenth, one thousand eight hundred and eighty-eight.

Taxation of property of consolidated company.

263. SEC. 3. That such consolidated company and all its real estate, franchises and other property shall be subject to taxation and shall be assessed in the manner provided by law from time to time for the taxation and the assessment of the real estate, franchises and other property of such corporations, and shall pay such tax as is or may be imposed upon its property and franchises; and shall pay an annual tax for the use of the state by way of a license for its corporate franchises, the same as if such consolidation had not been made, the intent being that the revenue to be paid to the state shall not be diminished in any way, but shall be at least as great as if paid by said companies separately before consolidation.

Repealer.

264. SEC. 4. That all acts or parts of acts, general or 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 4, 1894. P. L. 1894, p. 36.

Preamble.

WHEREAS, Certain corporations incorporated under any general or special laws of this state for manufacturing and dealing in appliances and apparatus necessarily used in connection with electric light, heat and power,

may have consolidated and merged their corporate rights, franchises, powers and privileges into a single corporation, and it may afterwards have been found that the certificate or certificates of organization of one or a part of such corporations so consolidated was recorded and filed subsequent to the passage of the act to which this is a supplement, and there might be an inadvertence in the application of the said act to which this is a supplement; therefore, in order that the invested property rights and franchises of the stockholders may not have been nor be imperiled thereby,

To what cases of consolidation act applies.

265. SEC. 1. That the provisions for consolidation of the act to which this is a supplement shall apply to the consolidation of all corporations incorporated under the laws of this state, and whose principal office or offices in this state were, at the time of such consolidation, located in cities of the second class, as mentioned in the act to which this is a supplement, for manufacturing, generating, storing, dealing in, furnishing and supplying of electricity for light, heat and power, and also carrying on of any and all business in connection therewith, and concerning the manufacturing, selling and dealing in appliances and apparatus where electricity is used for light, heat or power, that may at the time of the passage of this supplementary act have consolidated and merged their corporate rights, franchises and privileges into one corporation by the affirmative votes of stockholders representing at least two-thirds of the capital stock in each of said corporations.

An act relative to the publication of the expenditures of the public moneys by the common council or other governing body in cities of the second class of this state.

P. L. 1893, p. 487.

Approved March 28, 1893.

Detailed statement of expenditures to be published monthly.

266. SEC. 1. That it shall be the duty of the common council or other governing body in cities of the second class, monthly, to publish in a newspaper printed and published in said city a detailed itemized statement of the expenditures of the public moneys by said board for the preceding month; and it shall be the duty of the treasurer of every such city to prepare the statements of such expenditures for publication.

Newspaper to be designated for such publication.

267. SEC. 2. That it shall be the duty of the common council or other governing body in said cities of the second class, at their first regular meeting held after the passage of this act, to designate a newspaper in said city to publish the said expenditures of the public moneys as herein provided for and which newspaper so designated shall publish the same for the period of one year, at the expiration of which year it shall be the duty of said common council or other governing body to again designate a newspaper for that purpose; and in like manner shall a newspaper be designated each succeeding year.

Repealer.

268. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

An act to authorize the cities of the second class of this state to fund their unfunded or floating indebtedness. (1)

P. L. 1894, p. 300.

Approved May 14, 1894.

269. SEC. 1. [Amended by Sec. 273, *post.*]

Sale of bonds, &c.

270. SEC. 2. That such bonds shall be sold for not less than par and that the proceeds thereof shall be used to take up and pay off the said unfunded or floating indebtedness.

Repealer.

271. SEC. 3. That all acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

(1) This title amended. See Sec. 272, *post.*

Amendatory act.

Approved February 26, 1895. P. L. 1895, p. 122.

272. SEC. 1. That the title to said act approved May fourteenth, one thousand eight hundred and ninety-four, be and the same is hereby amended so as to read as follows: An act to authorize the cities of this state to fund their unfunded or floating indebtedness. Amendment of title to act.

273. SEC. 2. That section one of said act, of which this is an amendment, shall be and the same is hereby amended so as to read as follows:

[That it shall be lawful for any city of this state, by and through its board of aldermen, common council or other legislative body or its board of finance, in such cities where the latter board now has power to issue bonds, to issue bonds for the whole amount of the outstanding unfunded or floating indebtedness of the city, or such part thereof as they from time to time shall prescribe, and such indebtedness shall be and include all the temporary outstanding notes, scrip and other indebtedness other than bonds; that such bonds may be made payable as follows: ten per centum of each issue five years from the date thereof, and ten per centum each successive year thereafter, each such payment to be provided for in the annual tax levy when such payments are due, and shall bear interest at a rate not exceeding five per centum per annum, and be issued in such sums and of such denomination as the board of aldermen, common council or other legislative body or board of finance shall by ordinance determine; all of such bonds shall be signed by the mayor, countersigned by the comptroller, attested by the city clerk, and have the corporate seal of the city affixed, and shall have coupons attached for every half year's interest until due, which coupons shall be numbered to correspond with the bond to which they shall be respectively attached, and a register of such numbers, the date of issuing and the time of payment shall be made by the comptroller or other officer directed by said board, in a book to be provided for that purpose; *provided, however*, that no bonds shall be issued under this act to an amount which, with the other outstanding bonds of any such city, shall exceed the amount of ten per centum of the gross valuation of taxable property of any such city for the present fiscal year, nor shall any bonds be issued pursuant to this act unless the same are issued within one year after the passage thereof.] Certain cities may issue bonds for their unfunded or floating debt.

274. SEC. 3. That all acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately. Repealer.

An act fixing the time for holding the annual or charter elections of cities of the second class in this state.

Approved February 14, 1895. P. L. 1895, p. 76.

275. SEC. 1. That in all cities of the second class in this state the annual or charter elections thereof shall be held on the second Tuesday in April. [See Sec. 197, *ante*.] Date of charter elections. 515-275 31V-542 R97-353a

276. SEC. 2. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall go into effect immediately. Repealer.

An act to provide for the issue of temporary bonds or obligations in anticipation of the renewal of maturing bonds, under existing statutes, in cities of the second class of this state.

Approved March 7, 1895. P. L. 1895, p. 207.

WHEREAS, In certain cities of the second class in this state their bonds fall due and become payable at various times during each year; *and whereas*, it is advantageous and advisable that such cities renew bonds so falling due at one time and not at frequent intervals, and in order that such cities may temporarily provide for such bonds until a renewal is made and had thereon; therefore, Preamble.

When temporary bonds in anticipation of renewal bonds may be issued.

277. SEC. 1. That it shall be lawful for the common council, board of finance or other governing body of any city of the second class in this state to issue from time to time its temporary bonds or obligations in anticipation of the renewal of bonds falling due, said renewal of bonds to be made and had under and by virtue of existing statutes; and said temporary bonds or obligations shall run for a period not exceeding, with renewals, one year.

An act to authorize and empower the common council or other governing body of cities of the second class in this state, to settle, compromise or offset awards for damages resulting to any owner for the taking of his lands by said city for any public purpose, against any taxes or assessments upon other lands owned by such person.

Approved March 25, 1895.

P. L. 1895, p. 632.

Awards for damages may be set off against taxes and assessments due and unpaid.

278. SEC. 1. That in any city of the second class in this state where there is due from said city to any owner of lands therein, an award or awards, and upon whose lands there is due to said city for taxes or assessments, or both, an amount in excess of such award or awards, it shall be lawful for the board of aldermen, common council or other legislative body of any such city, to set off and adjust, upon such basis as they may deem equitable and just, such award or awards with such interest as may be equitable, against such taxes and assessments, whether the same have been adjusted or not, under the act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or 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 and amendments thereto, and to compromise, adjust and settle the amount of the lien of the city upon the lands of said owner remaining due to such city after making such offset and adjustment.

IV. Cities of the third class.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

An act concerning cities of the third class.

Approved February 20, 1883.

P. L. 1883, p. 38.

Term of office of members of council.

279. SEC. 1. That in cities of the third class the terms of office of members of the common council or other legislative body shall be for as many years as there are councilmen or members of such other legislative body elected from each ward; and that at each annual municipal election after the next succeeding election, one member of the common council or other legislative body shall be elected from each ward. (*a*)

Shall divide themselves into classes.

280. SEC. 2. That at the next succeeding municipal election the members of the common council or other legislative body shall be elected as heretofore, and at the second meeting of such common council then elected the members from each ward shall, by lot, divide themselves into classes, so that the term of office of one member from each ward shall expire in each succeeding year.

(*a*) This act held to be constitutional. The object is sufficiently expressed in its title, and it is not inappropriate to the class of cities to which it applies. *Randolph* v. *Wood*, 20 *Vr.* 85.

An act concerning recorders in cities of the third class.

Approved March 23, 1883. P. L. 1883, p. 214.

281. SEC. 1. That in all cities of the third class, where city recorders are now elected annually, they shall hereafter be elected for the term of three years. Term of office of city recorders.

An act concerning cities.

Approved March 23, 1883. P. L. 1883, p. 203.

282. SEC. 1. [Amended by Sec. 283, *post.*]

Amendatory act.

Approved March 14, 1895. P. L. 1895, p. 312.

283. SEC. 1. That section one of an act entitled "An act concerning cities," approved March twenty-third, one thousand eight hundred and eighty-three, and which section reads as follows [see P. L. 1883, p. 203], be amended so that the same shall read as follows:

[That the common council or other legislative body of the several cities of the third class be and they are hereby authorized to elect a city attorney, who shall be an attorney-at-law of at least two years' standing at the bar, and shall hold his office for the term of three years, and until his successor shall be duly appointed and qualified; he shall perform such service and receive such compensation as the common council or other legislative body shall by ordinance prescribe; *provided, however*, that this act shall not apply to any city wherein a like officer is provided for in its act of incorporation, or is elected by a vote of the people or appointed by the mayor, subject to confirmation by the common council of said city.] Appointment, term and compensation of city attorney. Proviso.

284. SEC. 2. 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 relating to cities of the third class.

Approved May 16, 1894. P. L. 1894, p. 368.

285. SEC. 1. [Amended by Sec. 288, *post.*]
286. SEC. 2. [Amended by Sec. 289, *post.*]
287. SEC. 3. [Amended by Sec. 290, *post.*]

Amendatory act.

Approved March 20, 1895. P. L. 1895, p. 379.

288. SEC. 1. That in all cities of the third class in this state the city clerk shall be elected by the council or other governing body at their annual meeting or any other regular meeting thereafter, and said council or other governing body shall, by resolution or ordinance, fix the compensation of said city clerk and define his duties. Election, compensation and duties of city clerk.

289. SEC. 2. That the term of office of the city clerk in all cities of the third class shall be three years. Term of office.

290. 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.

2. STREETS.

An act to enable cities of the third class to improve any one principal avenue, street or thoroughfare, and to provide payment for the costs and expenses of such improvement.

Approved March 16, 1882. P. L. 1882, p. 101.

291. SEC. 1. That any city of the third class within this state be and is hereby authorized to pave, with Belgian block pavement or any other durable material, any one principal avenue, street or thoroughfare leading Cities of the third class may pave one principal avenue.

through and out of said city, and to provide for the payment of the costs and expenses of such improvement in manner following:

May pass ordinance designating avenue or street to be paved, &c.

I. The board of councilmen or other legislative body of said city may, by ordinance passed in accordance with existing charter provisions, and without any previous application by property-owners, designate the avenue, street or thoroughfare to be paved, the extent of the same and the material to be used, which ordinance shall be published as prescribed by any existing law; said ordinance shall then be referred to the commissioners of assessments or other proper officers of said city qualified by law to make assessments, who shall examine into the whole matter impartially, and to the best of their skill, judgment and ability, and who shall cause a survey and preliminary map to be made of said improvement, distinguishing each lot or parcel of land and real estate benefited by said improvement by number on said map, and they shall estimate the costs and expenses of such improvement according to the best of their judgment, and they shall assess such proportion of such costs and expenses as will be equal to the amount of benefits actually acquired by said lands, and real estate from such improvement, proportioned equitably to the benefit each of said tracts or lots shall be deemed to acquire, and report the names of the owners of said lands and real estate, as far as practicable, with the amounts assessed to each, and shall file said report and map with the clerk of said city within forty days after such reference of said ordinance; the clerk shall give notice of any such report and map, within ten days after the same shall be filed with him, in the official newspapers circulating in said city, and by five notices put up on the line of said improvement;

Preliminary survey and assessment to be made.

Board of councilmen may proceed to carry out improvement or refer report for alteration or correction.

II. The board of councilmen or other legislative body of said city shall proceed forthwith to carry out said improvement, and may refer back said report and map to said commissioners of assessments, or other legally-qualified officers, for alterations or corrections in matters of form and substance when they deem the same necessary;

Costs and expenses to amount of benefits acquired to be assessed upon lands.

III. That such proportion of all such costs and expenses of said improvement as will be equal to the amount of benefits actually acquired by said lands and real estate from such improvement, proportioned equitably to the benefit each of such tracts or lots shall be deemed to acquire, shall be assessed by the commissioners of assessments or other legally-qualified officers upon and paid by such lands and real estate, and the said commissioners or other legally-qualified officers shall determine and report in writing to the said board of councilmen or other legislative body what proportion of such costs and expenses shall be assessed upon each separate lot or parcel of land, and shall accompany said report with a final map containing and delineating each lot assessed and the name of the owner or owners thereof, if practicable, which report and map shall be filed in the office of the city clerk, whereupon said clerk shall cause to be inserted in two newspapers circulating in said city, for at least ten days, a notice of filing said report, and the city clerk shall mail a written or printed notice to each of the known owners of land to be assessed therefor, and he shall also put up five notices on the line of said improvement in said city that the board of councilmen or other legislative body of said city, or a committee thereof, will meet at a time and place to be designated in said notice, to be at least ten days from the date of filing of said report, to consider said assessment, and to receive and consider all objections thereto, which may be presented in writing, and the said board of councilmen or other legislative body shall have power to return said map and report for correction in matters of form and substance before confirming the same, and when so returned for correction the said commissioners of assessments or other legally-qualified officers shall have power to correct the same, and they shall refile it with the city clerk within ten days after it shall have been so referred back to them, and if the said board of councilmen or other legislative body shall, by resolution, confirm said assessment, it shall constitute a first lien on the property assessed for the amount of such assessments, payable as in manner prescribed by the provisions of any existing law; that in all particulars not herein provided for, said improvements shall be

Report and map to be filed and notice to owners of land to be given.

Map and report may be corrected and refiled.

When confirmed, assessment to constitute a first lien.

made under and in accordance with the existing laws respecting improvement governing the respective cities which shall adopt the provisions of this act, so far as the same are not in conflict herewith; and the said board of councilmen or other legislative body shall have power to issue bonds having ten years to run from the date of the issuing of the same, bearing interest at not more than six (6) per centum per annum, in anticipation of the payment of the assessments referred to in this section, and when such assessments are paid they shall be credited to the street improvement account in any city where such an account exists or other proper account, and where such accounts do not exist, then and in that case such assessments, when so paid, shall be held inviolable for the payment of the bonds mentioned in this section.

Boards of councilmen empowered to issue bonds in anticipation of payment of assessments.

292. SEC. 2. That the balance of such costs and expenses of such improvement, if any remaining unassessed, shall be a debt upon and paid by the city in manner following: the board of councilmen or other legislative body of said city may issue bonds of the said city to the amount of the balance of the costs and expenses of said improvement, which bonds shall be made payable at periods of time not exceeding thirty years from the date of issuing the same, and shall draw such rate of interest not exceeding six per centum per annum, and be issued in such sums as the board of councilmen or other legislative body of any such city shall by ordinance or resolution determine, which bonds shall be of the denomination of not less than fifty dollars nor more than one thousand dollars, and shall be executed under the corporate seal of said city and the signature of the mayor or other proper financial officer or officers of said city; the bonds issued by virtue of this section of this act shall be called road construction bonds, and shall have coupons attached for every half-year's interest until due, or may be registered at the option of the holder, which coupons, if attached, shall be signed by the said mayor or other proper financial officer or officers of said city and numbered to correspond with the bond to which they shall be respectively attached, and all the bonds issued under this section of this act shall be numbered and a register of such numbers, the date of issuing and the time of payment shall be made by the said mayor or other proper financial officer or officers of said city in a book to be provided for that purpose, which bonds shall be received by the city authorities for their face value and accrued interest in payment of any assessment imposed for the same improvement; *provided*, that in order to redeem the bonds issued under the provisions of this section of this act at maturity, it shall be the duty of the board of councilmen or other legislative body of said city to establish a sinking fund, which shall be created by a special tax of not less than one and one-half ($1\frac{1}{2}$) per centum per annum on the issue of bonds herein provided for in this section, to be raised in the annual tax levy.

Balance of costs and expenses to remain a debt upon the city.

Bonds may be issued for balance of costs and expenses.

Bonds issued to be received for payment of assessments.

Proviso.

293. SEC. 3. That the interest on the bonds hereby authorized to be issued under section two (2) of this act shall be raised by a special tax annually levied and collected as other city taxes are now or may be hereafter levied and collected, and the whole of each year's interest shall be so raised, levied, collected and paid within each year, and the board of councilmen or other legislative body of said city may dispose of said bonds at either public or private sale for the best price that can be obtained for the same, but not at a less price than par value, and all moneys derived from the sale of said bonds shall be inviolably applied and used for purposes connected with said improvement.

Interest on bonds to be raised by special tax.

Bonds, how sold.

An act to provide for the laying out of streets in any city of the third class in this state.

Approved April 9, 1892. P. L. 1892, p. 444.

294. SEC. 1. That it shall be lawful for the common council or other similar municipal body of any city of the third class of this state, by ordinance, to lay out or open any street, road or highway in any part of the said city, and to cause any street, road, highway or alley already laid out

Proceedings for laying out, opening or altering streets.

in any part of the said city to be opened, altered or widened whensoever and so often as they shall judge the public good requires the same to be done; and the said common council or other similar municipal board shall give a written or printed notice to the owner or owners of any land or real estate necessary to be taken for either of said purposes, or to his, her or their legal representatives, of their intention to take such land or other real estate and appropriate it for such street, road, highway or alley, and shall treat with such person or persons for the same; and if any such person or persons shall refuse to treat for any such land or other real estate, or the said common council or other similar municipal body cannot agree with such person or persons for the same, then it shall be lawful for the said common council or other similar municipal body to appoint three judicious and disinterested citizens of said city as commissioners to make an estimate and assessment of the damages that any such owner or owners will sustain by opening, laying out, altering or widening any such street, road, highway or alley, and to ascertain the whole amount of damages and expenses incident to such laying out, opening, altering or widening, and to make a just and equitable assessment thereof among the owners and occupants of all the lands, tenements and real estate benefited thereby in proportion to the advantages each shall be deemed to acquire; and in case the council or other similar municipal body shall agree with every owner of land necessary to be taken respecting the same, then such commissioners shall be appointed for the purpose of assessing said damages and expenses among the owners of land benefited thereby in the manner aforesaid.

Proceedings to condemn lands and assess benefits.

Proceedings of commissioners in making awards of damages.

295. SEC. 2. That the said common council or other similar municipal body shall appoint a time and place within the said city for the said commissioners to meet, notice whereof shall be given by advertising the same in two newspapers printed in the city, if so many there be, two weeks before the time of meeting, which notice shall specify the street, road, highway or alley proposed to be laid out, opened, altered or widened, the alterations proposed to be made and the lands or real estate intended to be taken for such purposes; and the said commissioners, or a majority of them, when met, shall have power to swear and examine witnesses, and shall view the premises, if necessary, and make just and true estimates and assessments and report their proceedings to the common council or other similar municipal body sufficiently in detail to enable the common council or other similar municipal body to determine the principle upon which such estimates and assessments were made; such report shall be filed with the city clerk and be open to the inspection of the public for ten days previous to its presentation to the common council or other similar municipal body, and notice of such filing shall be published in two newspapers, if there shall be so many printed in said city, at least ten days previous to such presentation; parties interested may file with the city clerk written objections to said report, stating the nature and extent of their interests and the grounds of their objections to it; all such objections shall be filed within ten days after the first publication of the notice of the filing of the report; the said commissioners shall have full power to reconsider and change their report if objected to, or if they refuse so to do, either in whole or in part, they shall deliver such objections with their report to the common council or other similar municipal body, and the common council or other similar municipal body may ratify the action and report of the commissioners, or alter said report in respect to the matter specified in the objections, or the said common council or other similar municipal body may recommit the report to the commissioners for further consideration in respect to such matters, or any other matter connected therewith; and in the event of a recommitment the said commissioner shall, as far as may be necessary, comply with all the requirements of this section; when the common council or other similar municipal body shall have taken final action upon said report, it shall be binding and conclusive upon the owner or owners of any lands or real estate affected thereby, subject only to the appeal hereinafter given; and upon payment of the damages so awarded, or upon a tender and refusal thereof, it shall

be lawful for the common council or other municipal body to cause the said land or real estate necessary to be taken as aforesaid, to be entered upon and used for the purpose of the contemplated improvement; *provided, however*, that any person whose lands may be so taken, may appeal from the proceedings of said common council or other similar municipal body to the circuit court of the county within thirty days from the time of making the final order of the common council or other similar municipal body, and within the same period shall notify the city clerk of such intended appeal; the said circuit court shall order a trial by jury to assess the damages sustained by the party aggrieved, such trial to be conducted as are other trials by jury.

Appeal to circuit court.

296. SEC. 3. That if no such appeal to the circuit court be taken, the person whose lands shall have been taken shall be entitled to receive from said city, within sixty days from the time of making the final order of the council, the amount of damages sustained by them respectively, with interest from the date of said final order, and may, after the said period of sixty days, sue for and recover the same from the said city in an action of debt, with costs, in any court having cognizance thereof, and the said proceedings of the said commissioners and common council, or other similar municipal body, or the award of the said jury, as the case may be, shall be conclusive evidence against the defendants.

Damages to be paid in sixty days.

297. SEC. 4. That in case the common council or other similar municipal body and the owner of any such land or real estate shall agree upon the sum to be paid therefor, such sum shall constitute a part of the whole amount of damages and expenses to be assessed under and in pursuance of the provisions of section one of this act.

Upon agreement for lands, sum to constitute a part of expenses assessed.

298. SEC. 5. That any assessment made by virtue of this act shall bear interest at the rate of ten per centum after thirty days from the day the same is ratified by the final order of the city council, or other similar municipal body, and not before; and shall continue and remain a lien upon the lands and real estate so assessed until the said assessment with the interest and expenses shall be paid or the amount thereof discharged by sale of said lands and real estate by the city, and it shall be the duty of the city clerk to send by mail written notices of the ratification of any assessment made by the provisions of this act to each person assessed thereby within five days after such ratification or final order.

Interest on assessments.

Duty of city clerk.

299. SEC. 6. That no land or real estate shall be assessed for any such street, road or highway laid out, opened, altered or widened by virtue of this act, a greater amount than such land or real estate shall be benefited by such improvement; and in case the whole expenses of any such improvement shall exceed the amount assessable for the benefits, then the balance of such expense shall be paid out of the city treasury.

Assessments not to exceed benefits.

300. SEC. 7. That all assessments which shall be made or assessed by virtue of the provisions of this act upon any lands or tenements within said city shall be and remain a first lien thereon until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrances thereon.

Assessments a first lien.

301. SEC. 8. That it shall be no valid objection against laying out or opening any highway, street or road in said city that the ending-point of the same is not in a public highway; *provided*, the same be laid out or opened in conformity with the provisions of this act.

Street may be laid out though the ending-point is not in a public highway.

302. SEC. 9. That in case any assessment made as aforesaid shall not have been complied with by the payment of the sums thereby assessed, within six months after the notification by mail as aforesaid of the same as aforesaid, the common council or other similar municipal body shall cause a notice to be published in one or more public newspapers printed in said city, for at least one month, requiring the owner or occupant of such lands, tenements and real estate, respectively, to pay the sums at which the same shall have been assessed, together with all the interest, costs and expenses that shall have accrued thereon, to the treasurer of said city, and that, in default of such payment, such lands, tenements and real estate will be sold at public auction by the city treasurer to satisfy such assess-

Collection of assessments, how enforced.

ment, and the interest, costs, charges and expenses thereof, which notice shall be signed by the city clerk, and shall contain a brief description of the premises to be sold, and shall state the purpose and amount of the assessment against the same, with the costs, charges and expenses, and the day, hour and place of such sale; and copies of such notice shall be posted in five public places in such city, at least four weeks before such sale; it shall be lawful to sell said lands and premises pursuant to said notice, at public auction, for the shortest term for which any person or persons will agree to take the same and pay such assessment, interest, costs, charges and expenses; if at any such sale there shall be no other bidders, the city treasurer may, in the name and for the use of the city, purchase the property offered for sale for the term of one hundred years, and the city treasurer shall execute, under the common seal of said city, a certificate of said sale, and deliver the same to the purchaser within ten days after the sale.

Terms on which land may be redeemed.

303. SEC. 10. That the owner, mortgagee, occupant or any other person or persons having a legal or equitable interest in any lands or real estate sold for assessments as aforesaid, may redeem the same at any time within two years from the time of such sale, by paying to the city treasurer, for the use of the purchaser, his heirs or assigns, the said purchase-money, together with any other assessment properly chargeable thereon and which the purchaser may have paid, with the interest on said purchase-money, at the rate of ten per centum per annum, from the time of such sale or from the time of such payment, and the certificate of said treasurer, stating the payment and showing what property such payment is intended to redeem, shall be evidence of such redemption, which sum of money so paid the said treasurer shall cause to be refunded to the purchaser, his heirs and assigns.

Declaration of sale to be delivered and recorded.

304. SEC. 11. That if any lands or real estate so sold shall not be redeemed, as by this act provided, the common council shall cause to be executed to the purchaser, his legal representative or assigns, a declaration of sale, under the seal of the city, signed by the mayor, attested by the city clerk, containing a description of the premises, the fact of assessment, advertisement and sale, the date of the sale and the period for which the premises were sold, which declaration shall be recorded in the office of the city clerk; and until the same shall have been recorded, such lands and real estate may be redeemed as hereinbefore provided, notwithstanding the period of two years may have expired from the time of said sale; and such declaration of sale shall be presumptive evidence that such sale and proceedings were regularly made according to the provisions of this act, and such purchaser or purchasers, and his or their legal representatives, shall by virtue thereof lawfully hold and enjoy such lands and real estate, with the rents, issues and profits thereof for his and their own proper use against the owner or owners thereof, and all persons claiming under him or them, until the term shall be completed and ended for which the purchaser or purchasers may have agreed to take the same; and such purchaser or purchasers, and his, her or their legal representatives shall be at liberty to remove all the buildings and materials which he, she or they shall erect or place thereon, and at the expiration of said term shall peaceably and quietly yield up said lands and real estate to the lawful owner or owners thereof, and shall be liable for any injury or waste by him or them done or committed therein, in the same manner as a tenant for a term of years; *provided*, that whenever satisfactory evidence shall be produced to the common council that any lands so sold belonging to an idiot, lunatic or infant, for whose estate no guardian shall have been appointed, the said common council, or other similar municipal body, shall direct the mayor and city clerk to postpone the execution of a declaration of sale of such lands until at least four months after they shall have evidence that such disability has been removed, or guardian or trustee to their estate appointed, and until the expiration of said four months such guardian or trustee or person whose disability has been removed may redeem such lands as hereinbefore provided.

Rights of purchaser.

Proviso.

Certificates of sale to be recorded by city clerk.

305. SEC. 12. That it shall be the duty of the city clerk to record in proper books kept for that purpose, all certificates of sale and assignments thereof, to give certificates of search in relation thereto to any person applying for the same, and to cancel such certificates of sale and assignments thereof so recorded when the land and real estate for which they were given shall be redeemed, on certificate of the city treasurer of such redemption, and file such certificate in his office; it shall be the duty of the city treasurer to make out two receipts for all property redeemed, one for the person redeeming and one to be filed in the office of the city clerk.

Proceedings where owners of lands to be taken for street uses are non compos mentis, or out of the state.

306. SEC. 13. That in case any owner or owners of any land or real estate necessary to be taken for the laying out, opening, alteration, or widening of any street, road, highway or alley in the said city, shall be non compos mentis, or out of the state, or cannot be found on reasonable inquiry, and no agent or legal representative of such owner can on like inquiry be found in this state, then it shall be lawful for the common council or other similar municipal body of said city to proceed to the appointment of the commissioners mentioned and provided for in the first section of this act, after publishing in a newspaper printed in said city for the space of two weeks, at least once in each week, a notice of the intention of said common council or other similar municipal body to take such land or real estate and appropriate it for such street, road, highway or alley.

Commissioners to take oath.

307. SEC. 14. That all commissioners appointed by virtue of the provisions of the first section of this act shall, before they enter upon the execution of the duty required of them, be sworn or affirmed before any person authorized by law to administer oaths, to assess the said damages and benefits administered to them fairly and impartially according to the best of their skill and judgment; and the said common council or other similar municipal body may remove such commissioners and appoint others for any cause that to said common council or other similar municipal body may seem just; and in case of the resignation, death or disability of one or more of such commissioners, it shall be lawful for the common council or other similar municipal body to fill by appointment the vacancy or vacancies thus created, without prejudice to any proceedings already taken by such commissioners.

Vacancies.

Where assessments are set aside, proceedings may be re-instituted.

308. SEC. 15. That whenever, by reason of any informality or illegality in the proceedings of the common council or other similar municipal body, or of the commissioners of assessment, surveyors or other agents of the common council or other similar municipal body, or officers of the city in laying out, opening, altering or widening any street, road or highway by the provisions of this act, any assessment shall be set aside by judicial authority, it shall be lawful for the common council or other similar municipal body to re-institute the proceedings set aside upon the same basis upon which the original proceedings were based, or otherwise if they shall see fit so to do, and lawfully proceed therein the same as though the former proceedings had not been had; or the said common council or other similar municipal body may re-institute said proceedings from the point where such informality or illegality may have been so decreed, and whenever the common council or other similar municipal body shall discover that any such proceedings are liable to be set aside by judicial authority they may re-institute said proceedings from the point where such informality or illegality commences, and no assessments shall be deemed invalid in consequence thereof; but no writ of certiorari shall be allowed or issue to remove any assessment made upon the owner or owners of land and real estate for any work or improvement made, unless the same be applied for within six months after the confirmation of such assessment by the common council or other similar municipal body of said city, and this section shall apply as well to all proceedings heretofore set aside by judicial authority by reason of any informality or illegality as to those which may hereafter be so set aside.

Certiorari.

An act to provide for the paving or macadamizing of streets, roads and avenues in cities of the third class.

P. L. 1893, p. 398.

Approved March 17, 1893.

Paving of streets in certain cases may be authorized by resolution instead of ordinance.

309. SEC. 1. That in any city of the third class, whose charter provides that the council may by ordinance provide for the payment of one-third of the expense and cost of paving the streets of said city with Belgian blocks, macadamizing, or any other substantial material, that if any of the owners of lands on any street, road or avenue in said city shall make application, in writing, to the council or other governing body of said city, for the paving or macadamizing of any such street, road or avenue, that in such case it shall be lawful for the said council or other governing body, at any regular meeting at which such application shall be presented, or at any regular meeting thereafter, to authorize by resolution the carrying out of said improvement, and that in such case the said resolution so adopted as aforesaid shall have the effect of a petition or application signed by one-third of the owners of the lands fronting on said improvement, and in such case such preliminary steps shall be taken to carry out such improvement as is provided for by the charter of such city; and that unless two-thirds of the owners of the lands fronting on said improvement remonstrate, as provided for by said charter, then in that case it shall be lawful for the said city council or other governing body to proceed to carry out said improvement mentioned in said petition according to the provisions of the said charter.

Repealer.

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

An act for the grading, curbing, flagging and paving of streets in cities of the third class.

P. L. 1894, p. 348.

Approved May 15, 1894.

Street improvements may be paid for by general tax.

311. SEC. 1. That in all cities of the third class it shall be lawful to make improvements of streets, and to pay for the same by general tax; and the council or other governing body of any city of the third class having authority to improve streets, shall decide by resolution or ordinance how any street improvement shall be made, and shall decide how each street shall be paved.

Governing body shall fix amount to be expended.

312. SEC. 2. That in each year after the passage of this act the council or other governing body at some convenient time during the fiscal year, shall fix the amount which said city will expend for street improvements during the next fiscal year, to be raised by general tax, and the said amount shall be placed in the tax levy of the next fiscal year, by the board having the right to fix the tax levy for said city, or it shall be lawful for said council or other governing body to issue bonds of said city said bonds to be issued by the board having authority to issue bonds in said city in payment for street improvements.

May issue bonds.

Term and conditions of bonds.

313. SEC. 3. That all bonds issued by any city of the third class for any and all street improvements shall have twenty years to run and bear interest at a rate not to exceed six per centum per annum; said interest to be paid semi-annually, and said bonds to be either registered or coupon and of such denomination as the council or other governing body shall by resolution direct; and that as soon as any bonds are issued under this act a sinking fund shall be started for their redemption; and in said cities of the third class, where no sinking fund commission is in existence, the mayor, city treasurer and city clerk, ex officio, shall constitute a sinking fund commission under this act, and shall have power to invest the moneys raised under this act in such securities as they may elect, and hold the same for the redemption of the bonds issued under this act, and to redeem said bonds as they shall fall due; and said sinking fund commissioners shall cause each year an amount equal to one-twentieth of all the outstanding bonds, and the annual interest on all outstanding bonds to be placed in each year's tax levy; and it shall be the duty of the board in said city

Sinking fund commission shall be constituted.

having the right to fix the tax levy, to place said amount in the tax levy of the next fiscal year; *provided, always*, that if, at the expiration of the time for the redemption of any of the bonds issued under this act, the sinking fund commission shall not have sufficient funds on hand to redeem said bonds, and no adequate provision has been made for redeeming the same by the general tax levy, it shall be lawful for the board of said city having authority to make the annual tax levy to issue temporary loan bonds to redeem such maturing bonds for such length of time as said board shall elect, and to redeem said bonds and the interest thereon by future levies of taxes to pay the same; and that all bonds issued under this act shall be signed by the mayor and city clerk, and have the corporate seal of the city issuing the same fixed to said bonds.

When temporary bonds may be issued.

314. SEC. 4. That before any bonds can be issued under the provisions of this act, that the council or governing board shall submit by resolution the question whether or not bonds shall be issued to the electors of such city of the third class, at either a special election to be called by such council or governing board, or at the annual charter election of such city; that the notice, election and returns of the election shall be conducted in the manner that the annual charter election of such city is now conducted in such city; that the elector desiring to vote for the issuing of bonds shall cast a ballot with the words "for bonds to be issued for street improvements," and any elector desiring the contrary shall cast a ballot with the words, "against bonds to be issued for street improvements," and if the result of said election is in favor of issuing such bonds, then such council or governing board of cities of the third class shall be authorized to issue the bonds in accordance with the provisions of this act.

Question of issuing bonds shall be voted upon by electors of city.

315. SEC. 5. That the council or other governing board shall have the right to decide which streets or parts of streets shall be improved first, and such improvements shall be made from time to time, so as to best promote the general welfare of all the inhabitants of said city.

Governing body shall decide what streets shall be first improved.

316. SEC. 6. That it shall be lawful for any board having the right to fix the tax levy in any city of the third class, in order to carry on any street improvement and pay for the work done thereon, up to the time when the proceeds from the tax levy or sale of bonds will provide for the payment of the same, to issue improvement certificates at a rate of interest not to exceed six per centum per annum for such length of time as said board shall elect, and to pay and retire said improvement certificates out of the money raised by tax or sale of bonds, to pay for said street improvements, and the mayor of the city and the city clerk shall sign said improvement certificates, and the city clerk shall affix the corporate seal thereto.

Improvement certificates may be issued.

317. SEC. 7. That the bonds issued under this act shall never exceed ten per centum of the taxable value of the real and personal estate in said city.

Bonds limited to a certain amount.

An act to regulate the manner of making street improvements in cities of the third class in this state.

Approved March 21, 1895. P. L. 1895, p. 390.

318. SEC. 1. That in all cases when streets or avenues are ordered to be opened, graded or paved, or when sidewalks are ordered to be made, that it shall be lawful for the board of aldermen, councilmen or other governing body of any city of the third class in this state to cause said streets or avenues to be opened, graded and paved, and to lay sidewalks and set curbstones and gutters by contract, to be awarded to the lowest responsible bidder, without first requiring the property-owners along the line of said improvement or improvements to do said work at their own expense.

Street improvements may be made by contract.

3. WARDS.

An act to provide for the adjustment, division and creation of wards in certain cities of the third class in this state, and for the election of officers therein and in said cities.

P. L. 1895, p. 152.

Approved March 5, 1895.

Governing body may create and re-adjust wards in cities where wards have heretofore existed.

319. SEC. 1. That after the passage of this act, any city of the third class that has been heretofore divided into wards may, by ordinance adopted by a majority vote of the common council or other legislative body thereof, at a regular meeting or at a special meeting called for that purpose, so divide, create, re-create or adjust the wards thereof, and increase or diminish the number of such wards once in five years, so that each ward shall contain not more than eight hundred legal voters.

Certain ward officers to be elected.

320. SEC. 2. That whenever any city council or other legislative body, in any such city of the third class of this state, shall divide, create, re-create or re-adjust the wards of such city, or increase or diminish the number of such wards, in conformity with the first section of this act, each ward so created, re-created or re-adjusted, shall be entitled to elect to the common council or other legislative body in such city two councilmen or aldermen, as the case may be, and such other officers as were theretofore elected from the different wards of such city, whose term of office shall be for two years; *provided*, that if, at the date of the first election under this act, the term of office of any councilman or other person shall not have expired, then, in that case, such person shall hold his office for which he was elected, and at the expiration of said term his successor shall be elected for two years; *and provided, also*, if, in any of such wards, there shall be only one councilman or alderman, and his unexpired term is two years, there shall be an election of a councilman or alderman in such ward for one year.

Proviso.

Proviso.

Councilman or alderman-at-large shall be elected.

321. SEC. 3. That in addition to the councilman or alderman, as the case may be, and the other officers elected under this act, there shall be elected a councilman or alderman-at-large by all the legal voters of such city; which councilman or alderman so elected shall hold his office for two years, and may reside in any ward therein.

Construction of word "or."

322. SEC. 4. That the word "or" wherever it occurs in this act shall be construed to mean "and" whenever it shall be necessary to give effect to the provisions of this act.

An act providing for the formation and establishment of wards in certain cities of the third class in this state, and making the necessary changes in the government of the same.

P. L. 1895, p. 282.

Approved March 14, 1895.

Wards may be created in cities where they have not heretofore existed.

323. SEC. 1. That it shall and may be lawful for the common council or other governing body of any incorporated town or city of the third class in this state that has not been heretofore divided into wards by ordinance to divide said town or city into wards by ordinance all of which shall be formed of contiguous territory, and with due regard to equality of population; the boundary and dividing lines of all such wards shall be properly described, and a map defining the said lines and showing the extent and boundaries of such wards shall be made and filed in the office of the city clerk, with a description or statement of such lines, all of which shall be attested and certified by the mayor of said town or city.

Number to be in proportion to population.

324. SEC. 2. That the number of wards into which such town or city shall be divided shall not exceed more than one for every five hundred voters registered at the last municipal election held in said town or city, and each fraction thereof exceeding one-half; and that said ward lines and the number of said wards when established, shall not be changed oftener than once in five years, except by the unanimous vote of the board of aldermen.

Change of lines limited.

325. SEC. 3. That the several wards created as aforesaid shall constitute the election districts of said town or city; *provided, however*, that whenever more than six hundred votes shall be cast at any election in any of said wards or election districts, the board of aldermen may, in their discretion, divide such ward or election district into two districts, and cause boundary lines of the same to be marked on the map as hereinbefore provided. [See Sec. 328, *post.*] Election districts, how constituted.

326. SEC. 4. That there shall be elected in each of said wards two aldermen, who shall hold their office for two years and until their successors shall be elected, who, with the mayor of such town or city, shall constitute and form the government thereof in place of the government theretofore existing in such town or city, and the said mayor and board of aldermen shall be a body politic and corporate in deed, fact and name by the name, style and title of "the mayor and board of aldermen of ———," and shall have and enjoy all the rights, powers, authorities and immunities heretofore had and enjoyed by the governing bodies mentioned in the act of incorporation of said town or city; *provided, however*, that the mayor shall remain in office until the expiration of his present term, and the recorder, aldermen and common councilmen now in office in such town or city shall remain in office as the aldermen of the wards in which they severally reside until the expiration of their present terms; *and provided further*, that in case of an election for two aldermen in one of such wards, one shall be elected for one year and one for two years. Aldermen to be elected. Mayor and aldermen constitute a body politic. Proviso. Proviso.

327. SEC. 5. That the several county boards of registration shall appoint boards of registry and election for each of the election districts in such town or city of their respective counties, and that such boards of registry and election shall conduct all elections held in such town or city. County board of registration to appoint board of registry and election.

4. MISCELLANEOUS.

An act concerning cities of the third class.

Approved February 13, 1883. P. L. 1883, p. 31.

328. SEC. 1. That in all cities of the third class each ward shall constitute at least one election district, both for state and municipal elections. [See Sec. 325, *ante.*] Election districts in cities of third class.

329. SEC. 2. That the common council or other legislative body of any city affected by this act shall, upon the nomination of the mayor, appoint such election officers for the next election as may be necessary for carrying this act into effect. Appointment of election officers.

An act relating to assessments in cities of the third class of this state.

Approved May 5, 1890. P. L. 1890, p. 287.

330. SEC. 1. That whenever any assessment for benefits from any improvement heretofore made or work heretofore done by order of the corporate authorities of any city of the third class of this state, or any board or department thereof, shall have been heretofore or shall be hereafter ratified and confirmed, it shall be lawful for the board of finance in each city, or in the absence of such board then the board of aldermen, common council or other legislative body of any such city, if by resolution passed by the votes of at least three-fourths of all the members of such board, common council or other legislative body of any such city, it shall determine to accept from the parties so assessed, and in lieu of a cash payment, bonds for the settlement of such assessment, then the parties so assessed may, within thirty days from the passage of such resolution and by paying interest on said assessment from the date of the confirmation thereof to the date of entering into such a bond, or the interest which shall have accrued on said assessment may be included in the principal of such bond, deliver to said city such a bond, made payable to the city treasurer and entered into by the owner or owners of the property assessed, conditioned City may accept bonds for assessments in lieu of cash payments.

for the payment of such assessment in five years from the date of said bond by paying twenty per centum of the amount of said assessment in each and every year, with interest upon the amount of said assessment or such part thereof as may remain unpaid, at the rate of six per centum per annum, payable annually.

Bond to be filed and recorded in office of city treasurer.

331. SEC. 2. That the bond entered into as aforesaid shall be forthwith filed in the office of the city treasurer, and when so filed shall be recorded in a book or books of assessment bonds, and the said bond or a certified copy of the record thereof, under the hand and seal of the city treasurer, shall be conclusive evidence in any court of the contents of the same and of the legality of the assessment for which the said bond was given and of all the proceedings in relation thereto up to and including the date thereof.

Assessments to bear interest until paid.

332. SEC. 3. That in case the owner or owners of any land or real estate assessed for any improvement shall neglect or fail to pay the amount of the assessment, with interest as aforesaid, or to give the bond required within thirty days from the passage of such resolution as aforesaid, then such assessment shall bear interest at the rate of ten per centum per annum until paid, and said land and real estate shall be sold, as provided for the sale of lands for unpaid assessments, for the amount of such assessment,

When lands shall be sold.

with interest as above stated, costs and expenses; and in case any installment of a bond which shall have been given for an assessment, as aforesaid, or any interest thereon, shall not be paid according to the terms thereof, the whole amount of said bond unpaid shall become immediately due and payable, and interest shall be charged thereon at the rate of ten per centum per annum from the date of its becoming due until paid; said land and real estate shall be sold in the manner provided for the sale of lands for unpaid assessments for the amount of such assessment, with interest as above stated, costs and expenses, and the amount thus due on the bond for the collection of which the sale has been made, when paid, shall be credited on the bond, which shall be held by the city until the same is paid in full and extinguished; *provided*, that the receiving said bond shall in no way affect or impair the lien of said city upon the land and real estate assessed during the time said obligation shall continue in force and unpaid, and during said time sale may be made upon default as aforesaid.

Proviso.

Repealer.

333. 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.

An act regulating the payment of fees for licenses or permits granted in third-class cities of this state.

P. L. 1895, p. 377.

Approved March 20, 1895.

License fees may be authorized to be paid to tax collector instead of city clerk.

334. SEC. 1. That in any third-class city of this state when the city clerk is ex-officio clerk of the board of excise commissioners, or when licenses are granted by the board of aldermen or councilmen, or when, by any general or special public law, fees for licenses to sell malt or spirituous liquors, or for licensing hucksters, peddlers, auctioneers, and so forth, or the fees for any licenses or permits whatever are required to be paid to the city clerk, it shall be lawful for the board of aldermen, councilmen or other governing body in any such city having the control of the finances of said city to direct by resolution that all fees for licenses or permits of any sort or description required by law or by any ordinance of said city to be paid to the city clerk, or to be received by him, shall be paid by the applicants for such licenses or permits directly to the tax collector, collector of revenue or other officer collecting and receiving the taxes in said city, who shall receive the same and thereupon give his receipt therefor, specifying in said receipt the object or purpose for which the said license is to be issued or permit granted; and the receipt of said tax collector, collector of revenue or other officer collecting the taxes in said city shall be sufficient evidence in all courts and places of the payment of the fee or fees for such licenses or permits.

V. Cities of the fourth class.

An act to authorize cities 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 and otherwise improve the same, to provide the money necessary therefor, and to regulate the use thereof. (*a*)

Approved April 6, 1889. P. L. 1889, p. 206.

335. SEC. 1. That it shall be lawful for the common council or other governing body in the cities 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 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.

Certain cities may lay out and open streets, &c.

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S01-46

336. SEC. 2. That where, in any such city, 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 city to lay out, open and construct, and the character of the improvement 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 counsel, or other principal law officer of such city, on behalf of such city, to make application to the circuit court of the county wherein such city is situate, for the appointment of three commissioners to estimate the damages and benefits which the opening, laying out, construction or improvement of any such street, walk or drive will occasion; 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 disinterested residents and freeholders in the city in and 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.

Proceedings for the appointment of commissioners to estimate and assess damages, &c.

Damages, what to include.

Notice of application, how given.

Commissioners to take oath.

337. SEC. 3. That the said commissioners so appointed shall immediately after they are qualified as herein directed, give notice by advertisements in the newspapers of the said city in which the public laws and official notices are printed, of the time and place of their first 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

Proceedings of commissioners to estimate damages and benefits.

Commissioners to make report.

(*a*) This act has been held to be constitutional. *Bowker* v. *Wright*, 25 *Vr.* 130.

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 city 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 city 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 city 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.

Report, when confirmed, to be final.

When lands condemned shall become vested in city.

338. SEC. 4. That whenever any estimate and assessment of damages has been made and reported, and certified as aforesaid, it shall be the duty of the common council or other governing body, immediately to place in the treasury of said city 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 treasurer of such city, or in default thereof, may have an action against such city 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 city for the uses for which the same are taken, and such city 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 city 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 said city 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 city, 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 amounts awarded therefor, and the names of the owners thereof, so far as the same can 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 for benefits to be first lien.

Proceedings in case owner is nonresident, incapacitated, &c.

339. SEC. 5. That if in any case an award of damages is made to any person who is not resident in such city, or upon due inquiry cannot be found therein, or is a lunatic or idiot, or under age, or if for any other lawful reason is incapacitated to receive the same or will not accept the same when tendered; that the city treasurer shall make an affidavit of

such fact, and shall file the same with the city clerk, and the common council or other governing body of the city, shall, after inquiry into the facts of the case, direct the amount of such assessment to be paid into the treasury of such city 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 city 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.

340. SEC. 6. [Amended by Sec. 349, *post.*]

341. SEC. 7. [Amended by Sec. 350, *post.*]

Compensation and duty of commissioners.

342. 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 ten dollars per day for each day's service 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.

Appointment and powers of committee on streets, walks and drives.

343. SEC. 9. That in all work done in constructing streets, walks and drives 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 the 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 city, 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 city 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 city, and such regulations for letting such work and for securing the performance of the same as the common council or other governing body may require may be made, and all such contracts may be signed on the part of the city by the mayor and attested by the city clerk.

Proviso.

Unpaid assessments for benefits to draw interest.

344. 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 city, 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

Lands may be sold for non-payment of assessments.

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 persons 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 city may be a purchaser at any such sale, with all the rights of a purchaser.

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Use of streets, walks or drives, how regulated.

345. SEC. 11. That where, in any city, streets, walks or drives are laid out 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.

Supplement.

P. L. 1890, p. 159.

Approved March 31, 1890.

Construction of public walks above surface of ground authorized.

346. SEC. 1. That where any public walk or walks have been or may be constructed or built under the authority of the act to which this is a supplement, and the acts amendatory thereof, and in the judgment of the common council or other governing body of such city it has been or may be necessary to build and construct such walk or walks above the surface of the ground over and upon which the same have been or may be built, and above the grade which has been or may be established for the street or streets over, upon and across which the same has been or may be built and constructed, such walk or walks shall be deemed and taken to be lawful and authorized; and in every such case such walk or walks may be supported by and constructed on piling or other supports, placed in and upon the street or streets over, upon or across which the same have been or may be built and constructed.

Approaches to walks may be made.

347. SEC. 2. That when any such elevated walk or walks have been or may be built or constructed, it shall and may be lawful for the said board or body, under such reasonable regulations as may for this purpose be adopted and established, permit approaches to be made from contiguous property to connect therewith from the landward side thereof, or side most remote from the ocean front, along which such walk or walks have been or may be built or constructed.

Dedication of lands for streets or walks may be accepted.

348. SEC. 3. That it shall and may be lawful for the common council or other governing body of any such city to accept any dedication of lands or rights which have been or may be made for the purpose of enabling such city to open and lay out any such street or streets, drive or drives, or for the purpose of constructing any such walk or walks, or for the purpose of making any improvement in or to the same; and also to contract for and purchase any building or structure, or for the removal or destruction of any building or structure, the purchase, removal or destruction of which may be necessary in making the improvements and constructions so authorized, and for this purpose to borrow money on the credit of such city in any sum not exceeding twenty thousand dollars, and give proper certificates of indebtedness therefor; *provided*, that no such loan shall be

Proviso.

contracted for a longer time than three years, and that it shall be the duty of such board or body to provide for the payment thereof by raising a sum sufficient for such purpose in the tax levy of such city.

Amendatory act. (1)

Passed April 2, 1890. P. L. 1890, p. 174.

349. SEC. 1. That section six of the act above mentioned, to which this act is amendatory, be and the same hereby is amended to read as follows:

Costs and expenses of improving streets and walks assessed on owners of lands benefited.

[That the cost, damage and expenses of opening, laying out or constructing any street, public walk or drive, or of improving the same, opened, laid out, constructed or improved, under the authority of this act, or any supplement thereto, may be assessed by the said commissioners upon all the owners of land and real estate peculiarly benefited thereby, in proportion as nearly as may be to the advantage each shall be deemed to acquire, to the extent of the special or peculiar benefit so conferred, and the excess of such cost, damage and expenses shall in such case be assessed upon and paid by such city, and may be levied and raised by taxation, as other taxes are levied and collected therein; or if the common council or other governing body thereof shall so determine, the whole of such cost, damage and expenses shall be raised, levied, assessed and collected by general taxation therein, and in such case no assessment for benefits shall be made by the said commissioners.]

350. SEC. 2. That section seven of the said act be and the same is hereby amended to read as follows:

Bonds for such improvements may be issued.

[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 city, in the name of said city, to issue its bonds in any sum not exceeding in the aggregate one hundred thousand dollars, to be designated "city 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 city 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 city, 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 city for that purpose, where sinking fund commissioners exist in any such city, and where no such commissioners exist, shall be held by the treasurer of said city 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, in the annual tax levy of such city, such sum 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 city shall have authority to levy and collect taxes for this purpose.]

Redemption of bonds, how provided for.

351. SEC. 3. That the word "cities," as used in this act and the act of which this act is amendatory and the supplements thereto, shall be deemed, taken, held and construed to apply to and include all incorporated towns, municipalities and places in which the improvements and constructions, authorized by the said act or acts and supplements, are or may, by reason of the peculiar location and situation thereof, be necessary and proper.

The word "cities," how construed.

(1) The title to this amendatory act is amended by Sec. 352, *post*.

A supplement to an act entitled "An act to amend an act entitled 'An act to authorize cities in this state loacted 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 and otherwise improve the same, to provide the money necessary therefor, and to regulate the use thereof,' approved April fourth, one thousand eight hundred and eighty-nine," which said amendatory act was passed April second, one thousand eight hundred and ninety.

Approved May 12, 1890.

P. L. 1890, p. 323.

Amendment of title of act.

352. SEC. 1. That the title of the said act passed April second, one thousand eight hundred and ninety, to which this act is a supplement, be and the same hereby is amended so [as] to read as follows: "An act to amend an act entitled 'An act to authorize cities 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 and otherwise improve the same, to provide the money necessary therefor, and to regulate the use thereof,' approved April sixth, one thousand eight hundred and eighty-nine."

An act to authorize the repairing or paving streets in certain cases.

Passed April 7, 1890.

P. L. 1890, p. 225.

Proceedings for repairing or paving streets.

353. SEC. 1. That when, in any city of the fourth class of this state, owners of two-thirds of the lineal feet of property abutting on a street or any square or block of a street shall present a petition in writing to the city council of said city, asking that said street or square or block of said street be repaired or paved at the expense of the owners of the lands abutting on said street or square or block of said street, it shall be lawful for said city council to prescribe, by ordinance or otherwise, the method in which and the materials with which said street shall be repaired or paved, and to authorize a notice in writing to be served upon the owners or occupants of said land requiring the necessary specified work to said street to be done by said owners or occupants within a period of not less than thirty days from the date of service of such notice; whenever any lands are unoccupied and the owner cannot be found within the city 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 city, 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 in such city; in case the owner or occupant of such land shall not comply with the requirements of such notice it shall be lawful for the common council, due proof of the service, mailing or publication of such notice having been made, to cause the required work to be done and paid for out of the moneys of the city appropriated for the construction and repair of streets; 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 in such city.

Notice of assessments to be served on owners of lands.

354. SEC. 2. That the said collector shall forthwith, upon receiving such certificate, serve notice of said assessment upon the owners of the said land and demand payment thereof, together with interest at the rate of one-half per centum per month till paid; and in case the said owner or owners shall fail or neglect to make such payment on demand, the amount of said assessment shall be added to the annual tax assessed on said lands, and shall be part of the same and be collected by said collector, with interest as aforesaid, in the same manner as said other taxes are collected, and as part thereof at the time of the annual collection of taxes succeeding the receipt of such certificate, and payment thereof may be enforced by sale of the lands described in such certificate, in the same manner as payment of other taxes are enforced.

355. SEC. 3. That all moneys recovered or paid to the city under the provisions of the last preceding section shall be credited to the account out of which the cost of such work was paid. Assessments collected to be credited to such repairs account.

356. SEC. 4. That this act shall take effect immediately, and all acts or parts of acts inconsistent with the provisions herewith are hereby repealed. Repealer.

An act to authorize the building and repairing of sidewalks in certain cases.

Passed May 19, 1890. P. L. 1890, p. 340.

357. SEC. 1. That it shall be lawful for the common council or other governing body of any city of the fourth class in this state to prescribe by ordinance or otherwise the method in which, and the materials with which any sidewalk in said city shall be built or repaired, and to authorize a notice in writing to be served upon the owners or occupants of the land abutting on said sidewalk, requiring the necessary specified work to said sidewalk to be done by said owners or occupants within a period of not less than thirty days from the date of service of such notice; whenever any lands are unoccupied and the owner cannot be found within the city 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 city, 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 in such city; in case the owner or occupant of such land shall not comply with the requirements of such notice it shall be lawful for the common council, due proof of the service, mailing or publication of such notice having been made, to cause the required work to be done and paid for out of the moneys of the city appropriated for the construction and repair of streets; 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 in such city. Proceedings for building or repairing sidewalks.

358. SEC. 2. That the said collector shall forthwith, upon receiving such certificate, serve notice of said assessment upon the owners of the said land and demand payment thereof, together with interest at the rate of one-half per centum per month till paid; and in case the said owner or owners shall fail or neglect to make such payment on demand, the amount of said assessment shall be added to the annual tax assessed on said lands, and shall be part of the same and be collected by said collector, with interest as aforesaid, in the same manner as said other taxes are collected, and as part thereof at the time of the annual collection of taxes succeeding the receipt of such certificate, and payment thereof may be enforced by sale of the lands described in such certificate, in the same manner as payment of other taxes are enforced. Notice of assessments to be served on owners of lands.

359. SEC. 3. That all moneys recovered or paid to the city under the provisions of the last preceding section shall be credited to the account out of which the cost of such work was paid. Assessments collected, how credited.

360. SEC. 4. That this act shall take effect immediately, and all acts or parts of acts inconsistent with the provisions herewith are hereby repealed. Repealer.

An act to authorize cities of the fourth class to issue bonds in excess of the amount of indebtedness allowed to be created by their respective charters.

Approved April 3, 1891. P. L. 1891, p. 317.

361. SEC. 1. That it shall and may be lawful for any city of the fourth class in this state whose charter or supplement limit the amount of the bonded indebtedness of such city when it has already issued bonds in the aggregate amount equal to the indebtedness allowed to be created by its charter and supplements thereto, to issue bonds not to exceed in the aggregate the sum of fifty thousand dollars in excess of the amount of indebtedness allowed to be created by its charter and supplements thereto, the said bonds to be executed in the manner provided by its charter, and Bonds in excess of amount allowed by charter may be issued.

dispose of and sell the same, and the proceeds arising from the sale thereof shall be expended for the benefit of the said city by the city council or other governing body thereof.

Sinking fund to be created.

362. SEC. 2. That any such city shall by ordinance create, establish, maintain and regulate a sinking fund for the redemption of the bonds created by this act, and define the powers and duties of the board or committee in charge thereof.

Acceptance or rejection of act to be submitted to vote of the people.

If accepted, to go into effect immediately.

363. SEC. 3. That the city council or other governing body of any such city may by resolution, or the mayor of any city may by proclamation, submit the question of the acceptance or rejection of this act to the voters of such city at any general charter or special election to be held therein, whereof at least two weeks' notice shall be given by public advertisement in two newspapers circulating in such cities; and if a majority of those who shall vote for the acceptance or rejection thereof shall be in favor of the acceptance of this act, then this act shall go into effect immediately, and the grant of the power herein made to any such city shall be deemed to be accepted by such city, and such city shall be bound by the terms of this act; persons entitled to vote at any charter or municipal election where this question is submitted to them shall express their assent or rejection of this act by depositing their ballots in the box provided for depositing ballots at such election in such city, and those who are in favor of the acceptance of this act, and the grants and powers therein contained, shall each deposit a ballot containing the words "new bond act accepted" written or printed thereon, and those who are opposed shall deposit a ballot with the words "new bond act rejected" written or printed thereon; and this acceptance or rejection may be expressed upon the ballots on which are the names of the state, city or county officers, and no separate ballots shall be required for the purpose of this vote; and if a majority of the ballots on which there shall be the words "new bond act accepted" or "new bond act rejected" shall be found to be for the acceptance of this act, it shall then, but not otherwise, go into effect and be binding upon such city wherein such vote shall have been taken.

Majority of votes to decide.

Repealer.

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

An act in reference to cities of the fourth class.

P. L. 1891, p. 463.

Approved April 16, 1891.

Improving streets, how authorized.

365. SEC. 1. That in all cities in this state of the fourth class that it shall be lawful for the city council, or board of aldermen or other governing body having charge and maintenance of streets in such cities, to provide by ordinance for the paving, trunking or otherwise improving any of its streets.

Assessments of benefits for improvement.

366. SEC. 2. That it shall be lawful for such governing body to assess and collect from property-owners a proportionate part of the cost of paving streets fronting their property, not to exceed one-half of such expense, when two-thirds of the property on any street or block shall have been represented in petition to council asking for such improvement, and said council or governing body may apply to the circuit judge for the county in which such city is situated for the appointment of three commissioners to determine and assess the benefits upon the real estate peculiarly benefited by such improvement and said judge is hereby empowered to appoint such commissioners under such rules as he shall prescribe in an order to be by him made; said commissioners shall be sworn and shall determine and report under an order of said judge the benefits assessed upon each parcel or lot of real estate peculiarly benefited by such improvement, and the amount so fixed and assessed by them against each lot or parcel so benefited shall be and remain a lien thereon until paid to the extent of the proportionate amount thereof, which according to the ordinance providing for said improvement is to be borne and paid by the owners of the

real estate peculiarly benefited by said improvement, when said proportion is paid the lien shall be canceled.

Street grades may be changed.

367. SEC. 3. That it shall be lawful for council for the purpose of securing proper drainage to cause to be made such changes in existing street grades as may be found necessary, and to compel property-owners to conform to such grades, and all grade lines shall be given by a city surveyor and known as a permanent grade, and when so established and paved no property-owner shall be liable for further expense that may be caused by any change of grade.

Bonds may be issued.

368. SEC. 4. That it shall be lawful for such governing body for the purpose of defraying expenses incurred in such street improvements, to issue bonds payable in not less than one or more than twenty years, in any sum or sums not exceeding two hundred thousand dollars.

Sinking fund, how created.

369. SEC. 5. That it shall be lawful for such governing body to cause to be levied annually a special tax not to exceed ten cents per hundred of assessed valuation, which amount so received shall constitute a sinking fund to be used only for the purchase or payment of said bonds.

Limitation of indebtedness contained in city charter not to apply.

370. SEC. 6. That no provision of limitation or indebtedness contained in the charter of any city shall in any way interfere with any of the provisions of this act.

Supplement.

Approved March 17, 1893. P. L. 1893, p. 408.

Additional powers concerning street improvements.

371. SEC. 1. That in addition to the powers conferred by the act to which this is a supplement, it shall be lawful, and the common council or other governing body empowered by the provisions of the act to which this is a supplement is hereby empowered and authorized to improve, pave, drain, curb, elevate or depress any street or avenue under its charge and control or any part or section thereof, at the expense of the municipality at large, whenever and in any case in which said common council or governing body shall deem it for the general interest of the municipality so to do.

Such improvements, how authorized.

372. SEC. 2. That whenever it shall appear to said common council or other governing body that it shall be to the advantage of the municipality at large to improve, pave, drain, curb, elevate or depress any street or avenue, or part or section thereof, said council or governing body is empowered to provide by ordinance what particular street or avenue, or part or section thereof, shall be so improved at the general expense of the municipality at large, and shall further provide the specific kind or quality of improvement that is to be done, and shall further provide for letting the contract for such improvement to the lowest and best bidder for said work.

Street improvement bonds may be issued.

373. SEC. 3. That it shall be lawful for said common council or other governing body of such city to pledge the credit of the city for the payment of any expenditure for the improvements provided for in this act, by issuing bonds not exceeding the sum of three hundred thousand dollars, which said bonds are to be known as "street improvement bonds," shall bear interest not exceeding five per centum per annum, and shall not be issued for a shorter period than ten years nor a longer period than thirty years, which bonds shall [be] executed in the same manner as now provided by law.

Principal and interest of bonds, how paid.

374. SEC. 4. That it shall be lawful for said common council or other governing body of such city to raise by taxation, in the manner and form as all other moneys for the use of said city are raised, annually so much money as may be required for the payment of interest on said bonds, and the principal as it may come due.

An act to enable cities in this state, located on or near the ocean, and embracing within their limits or jurisdiction any beach or ocean front, to open and lay out a public park or place for public resort or recreation, on and along the beach or ocean front of such city, and to purchase or condemn lands, property and rights therefor, and to preserve the same from obstruction or encroachment.

P. L. 1894, p. 146.

Approved April 26, 1894.

Governing body may lay out public park on ocean front.

375. SEC. 1. That it shall be lawful for the common council or other governing body of any city in this state, located on or near the ocean, and embracing within its limits or jurisdiction any beach or ocean front, to open and lay out on and along such beach or ocean front, a public park or place for public resort and recreation, and to devote the lands within the limits of such park or place of resort, when established as herein directed, to such use exclusively.

Interior inland line, how established.

376. SEC. 2. That whenever the common council or other governing body of any such city shall determine to open and lay out such a park or place for public resort and recreation, it shall first cause the interior or inland line of the same to be established and suitably marked upon the ground, and cause a description of the same to be filed in the office of the city clerk of the said city, there to remain of record; and such interior or inland line shall not be established further inland than ordinary high-water mark along such beach or ocean front, and may extend along the same within the limits of such city, or along any part thereof; *provided, however*, that where in any such city an elevated public walk has been heretofore constructed along the beach or ocean front in such city, on or near to the line of ordinary high-water mark, whether within or without the said line, such line may be established and fixed as far inland as the interior line of such public walk.

Lands outside of such interior line, how acquired.

377. SEC. 3. That when such interior line has been established, as herein provided, it shall and may be lawful for the common council or other governing body of such city to purchase or condemn all the lands, real estate, property, and rights, of persons and corporations situate, lying and being within and between the line so established and the exterior line now or hereafter established by the state riparian commissioners, along and in front of the property over and across which such interior line has been established, and to devote the same exclusively to public use as a public park or place for public resort and recreation, and to keep the same forever open and unobstructed for such public use.

Elevated public walk may be constructed, &c.

378. SEC. 4. That it shall be lawful for the common council of such city to build and construct an elevated public walk, and to maintain the same, along the interior line of such public park or place of resort, which elevated public walk shall not extend at any point more than one hundred feet toward the ocean from the line so established; and in case any such elevated public walk has heretofore been constructed in any such city, on or along the line so established, it shall be lawful for the common council or other governing body of such city to change the construction and location thereof, so that the same shall conform to the provisions of this act.

City may accept lands dedicated for certain purposes.

379. SEC. 5. That it shall be lawful for the common council of such city to accept from any person or persons or corporation owning lands, property or rights which by the provisions of this act such city is authorized to purchase or condemn, a dedication of such property, lands and rights for the uses and purposes herein mentioned, and in accepting any such dedication it shall be lawful for the common council or other governing body of such city to contract and agree with the owner or owners so dedicating such lands, property and rights to so change the location of the line established under the provisions of this act over and across the property so dedicated, and to so change the location and construction of the elevated public walk constructed thereon (if any shall be so constructed), in such manner that the owner or owners so dedicating such land, property and rights may secure the benefit of any accretions which

may be made to the land and property so dedicated through or by the action of the tides or waters of the ocean or other natural causes.

City may regulate the uses of such public lands and prevent obstruction, &c.

380. SEC. 6. That the common council or other governing body of such city may regulate the use of such lands and property when so purchased, condemned or dedicated and so devoted to such public use in any such city, and prevent any obstruction thereof and any encroachment thereon; and it shall not be lawful to locate, construct or operate any steam, horse or other railway over or across the lands so purchased, condemned or dedicated, or any part thereof, or to open or lay out any public highway or street over or across the same, it being the intention, when such lands are so purchased, condemned or dedicated and devoted to the public use aforesaid, that the view of the ocean from the interior line so established, and from the elevated public walk, when the same is or shall be constructed, as herein provided, shall be free and open and unobstructed, and that no use shall be made of the said lands and property inconsistent with the purpose of this act.

Proceedings for condemning lands &c.

381. SEC. 7. That when any lands and real estate, or any rights therein are or shall be condemned, as in this act provided, such lands, real estate, and all rights therein, shall be and become the property of the city so condemning and appropriating the same, and the proceedings in condemnation shall be regulated by and shall conform to, as nearly as practicable, the provisions for the condemnation of lands, provided for in the act entitled "An act to authorize cities 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 and otherwise improve the same, to provide the money necessary therefor, and to regulate the use thereof," approved April sixth, one thousand eight hundred and eighty-nine, constituting chapter CXXIX. of the session laws of one thousand eight hundred and eighty-nine.

Assessments for benefits may be made.

382. SEC. 8. That it shall be lawful for the common council or other legislative body of such city in case any lands, property and rights, shall be purchased or condemned under authority of this act, and devoted to such public use, to cause an assessment to be made of the special or peculiar benefits, which such improvement may confer, upon all the owners of lands and real estate benefited thereby, in proportion to the benefits each shall be deemed to acquire, and such assessment shall be made and collected in the manner now or hereafter provided by law, for the making and collection of benefit assessments for other public improvements, in such city.

VI. Cities having less than 10,000 inhabitants.

1. CITIES HAVING BETWEEN 6,000 AND 10,000 INHABITANTS.

An act concerning cities having less than ten thousand inhabitants and more than six thousand inhabitants.

Approved March 12, 1879. P. L. 1879, p. 123.

Mode of adopting provisions of act.

383. SEC. 1. That any city in this state having less than ten thousand inhabitants and more than six thousand, according to the last preceding census taken by authority of this state or of the United States, may adopt the provisions of this act in the manner hereinafter provided; the common council of such city may at any time provide by ordinance for the holding of an election by the legal voters thereof, for the purpose of deciding whether such city will adopt this act as its charter; and it shall be the duty of such common council to pass such ordinance whenever fifty or more of the legal voters of such city shall petition therefor; such election shall be by ballot, and shall be conducted, as far as may be, in the usual manner of holding elections in such city; and such ordinance shall prescribe the time and place or places of such election, and shall contain such other regulations respecting the same as may be deemed necessary or proper; notice of such election shall be given at least thirty days prior thereto, by advertisements published in two newspapers printed in such

city, if so many there be, and by printed notices put up in at least five public places in such city; if a majority of the votes cast at such election shall be in favor of adopting this act, then the mayor shall, within ten days thereafter, cause a certificate of the result of such election, signed by himself and the city clerk, and attested by the seal of the city, together with a certified copy of the said ordinance, and proof by affidavit that due notice of such election has been given, to be filed in the office of the secretary of state; and from the time of such filing the provisions of this act shall be the charter or form of government of such city, and shall so remain until changed according to law, notwithstanding any subsequent increase in the population of such city; *provided*, that no election shall be held under the provisions of this section more than once in any one year.

Proviso.

On adoption of act, how former powers, &c., affected.

384. SEC. 2. That any city adopting this act shall continue to be a body politic and corporate in fact and in name, and shall have perpetual succession, with all the grants, powers and privileges theretofore held by the said city and not modified or repealed by the provisions of this act; and all acts and parts of acts in so far as they are inconsistent with the provisions of this act, when the same shall have been adopted in any city, are hereby superseded so far as they relate to such city, and such acts or parts of acts are to that extent only repealed; this act, or the adoption thereof by any city, shall not prejudice or affect any right accrued or legal proceeding commenced, by reason of anything contained in acts or parts of acts hereby superseded or repealed, and so accrued and commenced before this act takes effect by adoption in said city, except so far as herein specially provided for; the ordinances of the common council of any city adopting this act, in force at the time of such adoption, are hereby revived and continued in full force as city ordinances, subject to modification, amendment or repeal by the common council of such city.

Ordinances, &c.

Certain words defined.

385. SEC. 3. That in all the following sections of this act, the words "the city," or "said city," shall be held to mean any city which shall have adopted this act as aforesaid, and the words "the county," shall be held to refer to the county where such city is situated.

Division of city into wards.

386. SEC. 4. That if the city shall have more than six thousand inhabitants, according to the last preceding census, and shall not have been divided into wards, it shall be the duty of the common council, as soon as practicable after the adoption of this act, to pass an ordinance dividing the city into wards and fixing the boundaries thereof, but such division shall not be made within sixty days immediately preceding the annual election of city officers; the common council shall also have power to pass ordinances changing the boundaries of wards and the numbers by which they may be designated, and creating new wards.

Time of holding annual election.

387. SEC. 5. That the annual election shall be held on the first Tuesday of December in each year, at such place or places as the common council shall appoint; the city clerk shall, at least ten days prior to such annual election, cause an advertisement to be set up in at least five public places in the city, and to be published in two newspapers, if so many there be printed therein, specifying fully the officers to be elected, and the time and place or places at which such election is to be held.

Time of opening and closing polls.

388. SEC. 6. That the poll of such election shall be opened and closed at the time appointed by law, and the judges and inspectors of election in each election district shall be the officers of said election; and in case of the absence, death, disability or refusal to serve, of any of said officers of election on the day of election, the lawful voters present shall elect, viva voce, a person or persons to supply such vacancy or vacancies; that the name of each voter at such election shall be written on the poll-list by the clerk, and after the poll shall be closed the said judges of election shall immediately count the votes given for the several candidates, and certify the result under their hands and seals, and deliver such certificate to the clerk of said city, who shall file and preserve the same in his office, and the persons having the greatest number of votes shall be deemed to be elected to the offices for which they shall be voted for respectively, and shall hold their offices for the terms specified in this act.

Result of election to be certified.

389. SEC. 7. That all persons residing in said city, entitled to vote by the constitution of this state at elections by the people, shall be entitled to vote at all elections under this act, and the said citizens so entitled to vote shall be capable of holding any office in the city; *provided*, that no person shall be elected or serve as mayor or common councilman, unless he shall have resided in said city at least one year immediately preceding said election. Who may vote. Proviso.

390. SEC. 8. That at every annual election there shall be chosen from among the citizens at large one assessor, one collector, one treasurer, two chosen freeholders, two constables and three commissioners of appeals, all of whom shall hold office for one year; the mayor shall be elected biennially and shall hold office for two years; the city judge shall be elected triennially and shall hold office for three years; in cities not divided into wards there shall be elected, by and from the citizens at large, eleven members of the common council; in cities divided into wards the members of the common council shall be elected by and from among the citizens of the several wards, except as hereinafter otherwise provided; if there are two wards there shall be five councilmen from each ward; if there are three or four wards there shall be three councilmen from each ward; if there are more than four wards there shall be two councilmen from each ward; whenever the whole number of councilmen elected from the wards shall be an even number, there shall be one additional member of the common council elected by the citizens of the city at large; the term of office of members of the common council shall be one year; at the first annual election held after the adoption of this act, there shall be elected, by and from among the citizens at large, four excise commissioners, who, together with the mayor, shall constitute a board of excise, which board shall, at its first meeting, decide, by lot, which two of its members, other than the mayor, shall hold office for one year, and which two for two years; and at every subsequent annual election there shall be elected two excise commissioners, whose term of office shall be two years; there shall be elected at every annual election one judge of election, one clerk of election and two inspectors of election for each polling district in said city; in cities not divided into wards, the judges, clerks, and inspectors of election shall be elected by and from the citizens at large; in cities divided into wards, such officers shall be elected by and from among the voters of each ward for each of the polling districts in such ward; until the division of the city into wards, justices of the peace shall be elected according to the law applicable thereto before the adoption of this act by such city; after such division, there shall be elected, by and from among the citizens of each ward, in cities having not more than five wards, one justice of the peace, who shall hold office for five years from the first day of May next succeeding his election; *provided*, that any city which may, at the time of the adoption of this act, have its full number of justices of the peace, shall elect no justices of the peace at any annual election unless, before the next annual election, the number of justices in office will be less than the number required by this act, and then only so many shall be elected as shall be necessary to supply such deficiency; vacancies that have occurred or may be about to occur shall be filled from the different wards in their numerical order, beginning with ward number one; and after each ward shall have elected a justice of the peace, an election to fill this office shall only be held in each ward when a vacancy has occurred or will, by the expiration of a term of office before the next annual election, occur therein; the several justices of the peace shall hold their courts in the wards from which they are respectively elected; the terms of office of all officers except justices of the peace and chosen freeholders shall begin at noon on the first Monday of January next after their election. Officers to be elected annually. Election of mayor. City judge. Members of common council. Councilman-at-large. Excise commissioners. Election officers. Justices of the peace. Proviso.

391. SEC. 9. That officers who may have been elected before the adoption of this act shall hold their offices respectively for the terms for which they were elected, and until the terms of office of their respective successors shall begin. Persons now in office to hold until term expires.

Powers and duties of the mayor.

392. SEC. 10. That the mayor shall be the chief executive officer of the city, and shall see that the laws of the state and ordinances of the city are faithfully observed therein; he may recommend the common council to pass such measures as he may deem necessary or expedient for the welfare of the city; he shall maintain peace and good order therein, and in case of a riot or tumultuous assembly, may take command of the police force of the city to suppress it; in case of persons violating, or being suspected by him of violating any criminal laws of this state, or penal ordinance of the city, he shall possess the same power and authority which justices of the peace possess in criminal cases; he shall sign all licenses directed to be issued by the common council, and no bonds, obligation or other evidence of indebtedness issued by the city shall be valid unless signed by him; he shall nominate and, by and with the advice and consent of council, appoint one chief of police, and as many regular and special policemen as the common council may, by ordinance, direct; the policemen to be selected, as nearly as may be, in equal numbers from the different wards; in case of emergency, he may appoint as many additional special policemen as he may deem necessary, which last-mentioned appointments shall be reported to the common council at its next meeting; he shall also nominate and, by and with the advice and consent of the council, appoint the corporation counsel, street commissioner, overseer of the poor and all officers of the city whose election or appointment is not in this act otherwise provided for.

Appointment of police.

Time of meeting of common council for organization.

393. SEC. 11. That the duly-elected members of the common council of said city shall meet in the council chamber on the first Monday in January, at the hour of eight P. M., for the purpose of organizing for the transaction of business, and should the said common council not then organize, it shall be the duty of the city clerk to call the members together for that purpose within ten days thereafter.

Members of common council, their powers.

394. SEC. 12. That the persons elected for members of the common council, or a majority of them, shall have power to appoint the city clerk and janitor of the council chamber; to hold a common council within said city, at such time and place as may be appointed by the ordinances and resolutions of the said common council; to meet upon their own adjournments, and to call special meetings by request of any three members of said council in writing, addressed to the clerk of said council, or by order of the president of said council, and that the whole legislative power of the corporation of said city shall be exclusively vested in the said common council; *provided*, that no ordinance or by-law shall be at any time enacted or passed, altered or repealed, except by a concurrence of a majority of all the members of said common council, and unless the same shall have been introduced before the said common council at a previous meeting.

Proviso.

Ordinances and by-laws.

395. SEC. 13. That it shall and may be lawful for the common council of said city to pass such ordinances or by-laws as to them shall seem meet and necessary for regulating, leveling, grading, paving, macadamizing, graveling, cleansing and keeping in repair the streets, roads, highways, alleys and crosswalks in said city;

For regulating paving and grading streets, &c.

Obstructions, &c.

For preventing or removing all obstructions, encroachments, incumbrances and nuisances, or any of them, from the streets, roads, highways, sidewalks, alleys, inclosures and lots in said city;

Grades, &c.

For ascertaining and establishing the grades and boundaries of all streets, alleys and sidewalks in said city;

Surveys, &c.

For causing the territory embraced within the boundaries of said city to be accurately surveyed and mapped for roads, streets and avenues; and

Lamp and police districts.

For establishing lamp and police districts within said city, and provide for assessing within each respective district the cost of lighting and maintaining police patrol, either or both, within such districts;

Curbing sidewalks, &c.

For curbing, grading, paving, flagging, graveling, cementing or planking sidewalks in said city;

Removing nuisances.

For preventing or removing all obstructions, impediments, incumbrances or nuisances on any street or street crossing, caused by any railroad company or its agents;

For preventing persons from riding, driving or passing over or upon the sidewalks, except when necessary to cross the same, with horses, wagons, carts or carriages of any description ; — To prevent driving on sidewalks.

For lighting the streets and alleys in said city ; — Lighting streets.

For preventing or regulating the running at large of horses, cattle, goats, geese, dogs and swine ; — Animals running at large.

For preventing the immoderate riding or driving through or in any street or alley of said city ; — Immoderate driving.

For keeping sidewalks and gutters free from snow, ice and other impediments, and for strewing sidewalks, when necessary, with ashes or other suitable material ; — Sidewalks and gutters.

To enact health laws and establish a board of health ; — Health.

To provide for the relief of the poor, and for the establishment, maintenance and management of an almshouse or workhouse and a city hospital ; — Relief of poor.

For preventing or suppressing any riots, routs, disturbances, breaches of the peace or disorderly assemblages, in any street, alley, house or place in said city ; — Prevention of disorderly assemblages.

For sinking and regulating pumps, wells and cisterns in the streets or inclosures of said city for the extinguishing of fires ; — Pumps, &c.

For regulating fire engine, hose and truck companies ;

For the prevention and suppression of fires ; — Fires.

For regulating the keeping of gunpowder and other combustible or dangerous materials ;

For cleansing of chimneys and regulating the same ;

Prescribing the number, powers, duties and compensation of policemen, regular and special, and other subordinate officers ; — Powers, &c., of police.

For regulating weights and measures ; — Weights and measures.

For establishing and regulating one or more public pounds ; — Public pounds.

For restraining vagrants, mendicants and street beggars ; — Vagrants.

For erecting, repairing and regulating a city hall and city jail ; — City hall, &c.

For assessing and collecting taxes ; — Taxes.

For regulating and conducting city elections ; — Elections.

For preserving peace and good order ; — Peace and order.

For preventing and suppressing all gaming and disorderly houses ; — Disorderly houses.

For regulating or preventing the carrying on of any trade, business or manufacture likely to promote or cause fires or otherwise to endanger the health or well-being of the inhabitants of said city ; — Dangerous trades.

To regulate and control the manner of erecting dwelling-houses and other buildings, and to prohibit within certain limits, to be from time to time by it prescribed, the building or erection of any dwelling-house, store, stable or other building of wood or other combustible materials ; — Erection of dwellings, &c.

To prevent the setting up or construction of furnaces, stoves, boilers, ovens or other things in such manner as to be dangerous ; — To prevent danger from fires, &c.

For the sewerage or drainage of said city ; — Sewerage, &c.

For laying down pipes for the conveyance of water or gas in the streets, highways, alleys and sidewalks of said city, and for regulating the same ; — Laying pipes, &c.

For the protection of trees, buildings and fences from mutilation or defacement ; — Protection of trees, &c.

For preventing and punishing injuries to public lamps and lamp-posts ; — Injuries to lamps.

For abating and removing nuisances of every kind, and for compelling the owner or occupants of any premises wherein may be carried on any business, operation or calling, or in or upon which there may exist any matter or thing which is or may be detrimental to the health of the inhabitants of said city, or any part thereof, to cleanse, remove, disinfect or abate the same as often as may be necessary, at the expense of such owner or occupants ; — Abating nuisances.

For offering and paying rewards for the apprehension and conviction of criminals or violations of any of the city ordinances ; — Rewards for apprehension for crime.

For the suppression and punishment of vice and immorality ; — Suppression of vice, &c.

For regulating the licensing of taverns and saloons, and for the prevention of illegal traffic in spirituous and fermented liquors ; — Licensing taverns.

Hacks, &c. For licensing and regulating public hacks, carriages, carts, trucks, horse-cars or other cars used for local passenger travel and other vehicles used for hire;

Peddlers. For licensing and regulating peddlers, hucksters and other street venders;

Cesspools, &c. For regulating the construction and cleansing of privies and cesspools;

Signs and awnings. For regulating awnings, posts, signs and banners;

Auctioneers. For licensing auctioneers and regulating the sale of goods by auction;

Parks. For the care and improvement of public parks;

Numbering buildings. For the numbering of streets and buildings;

Cemeteries. For regulating cemeteries;

May pass other necessary ordinances. And the said common 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 the said city 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.

Licensing shows and exhibitions. **396.** SEC. 14. That the common council of said city shall have the power of licensing all circuses or other shows and exhibitions whatsoever proposed to be performed or exhibited within the limits of said city, on such terms and subject to such restrictions as the said common council may prescribe.

Money for licenses to be paid to city treasurer. **397.** SEC. 15. That the common council may, by ordinance, delegate to the mayor and city judge, or either of them, the power of granting all licenses except the licenses mentioned in section thirty-eight of this act, and all moneys which may be derived from granting any licenses whatever under this act shall be paid to the treasurer for the use of said city.

Officers' fees. **398.** SEC. 16. That the common council of said city shall have power, by ordinance or resolution, to grant or allow such fees or compensation to the several officers of said city, and commissioners appointed under this act, as to the said council shall seem necessary and proper; *provided*, that the members of the common council shall not receive, directly or indirectly, any compensation for the performance of their official duties.

Proviso.

Meeting of council to be public. **399.** SEC. 17. That the place of meeting of the said common council shall be open for the admission of all peaceable and orderly persons who shall be desirous of being present while the said council shall be in session on public business, and the said common council shall have full power to enforce the preservation of order.

Vacancies in office, how filled. **400.** SEC. 18. That every vacancy happening in any office created and made elective by this act, by death, resignation, permanent disability, removal or otherwise, except in officers of election on the day of election, shall be filled by the said common council within thirty days thereafter, and the said appointment shall continue until noon of the first Monday of January succeeding the next annual election, and no longer; and if, from any cause whatever, the mayor shall be temporarily prevented from discharging the duties pertaining to his office, then such duties shall devolve upon and be discharged by the president of the common council.

Ordinances to be approved by mayor. **401.** SEC. 19. That every ordinance and supplement to an ordinance passed by the common council of said city shall, before it takes effect and becomes a law, be at once presented to the mayor by the city clerk, with a certification by said clerk as to the date of such presentation, and if the said mayor approve of it he shall sign it, if not, he shall return it with his objections and file it and them with said clerk within ten days after he received it; and the said common council shall, at its first meeting thereafter, or at the first subsequent meeting, enter the said objections at length upon its journal and proceed to reconsider such returned ordinance or supplement, and if a majority of all the members of the said council agree to pass the same, it shall take effect and become a law, but in every such case the vote shall be taken by ayes and noes and entered upon the journal; and if such ordinance or supplement shall not be returned within ten days, as aforesaid, it shall take effect and become a law in like manner as if the mayor had signed it; and each and every ordinance or supplement so passed as aforesaid shall be attested by the city clerk and published in two newspapers printed in said city, if so many there be, ten days before

Proceedings in case of disapproval.

such ordinance or supplement shall go into effect; and like public notice shall be given of the intended adoption by the said common council of any ordinance or supplement at least fourteen days before such adoption.

Enacting clause of ordinances.

402. SEC. 20. That the ordinances of the common council of said city shall begin in the following manner, to wit: "The inhabitants of the city of (naming the city) by their common council do enact," as follows.

Money to be raised by taxation for city purposes.

403. SEC. 21. That it shall and may be lawful for the common council of said city to order and cause to be assessed and raised by tax, in any one year, such sum or sums of money as may be necessary for the support of the city poor, and to pay the interest upon any existing bonded debt of said city, and the principal thereof when necessary; and such further sum, not exceeding ten thousand dollars, as they shall deem expedient for the current expenses of said city, and for all other objects and purposes authorized by this act, which amounts shall 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 paid into the hands of the treasurer of said city, and be subject to the order of the said common council; *provided*, that in cities where no other sufficient provision exists for the support of the public schools or of the fire department, the common council shall cause to be assessed and collected such further sum as may be necessary for said purposes, or either of them.

Proviso.

Proceedings when a greater sum than $10,000 is necessary to be raised in any one year.

404. SEC. 22. That whenever a greater sum of money than the said sum of ten thousand dollars shall, in the opinion of the said common council, be necessary to be raised in any one year for the uses of said city, then, in such case, the said common council are hereby authorized to give notice to the inhabitants of said city, by advertisements published in two newspapers printed in the said city, if so many there be, at least fifteen entire days before the day of holding any election hereinafter mentioned, and by printed hand-bills put in five of the most public places of said city for a like period, that an election will be held at the time and place therein mentioned; the said time and place to be designated by the said common council, to vote such a sum of money, to be raised by tax in the said city, as the said common council may think necessary to be raised for the uses of the said city, and which sum of money shall be stated in the said notice; at which said election only such persons shall be entitled to vote as may be entitled to vote at any regular annual election of said city, the voting to be by ballot, written or printed, or partly written and partly printed, for or against the sum of money proposed by the said common council in and by their said notice; which said ballot shall contain the word "money," or the words "no money;" the time of opening and closing the poll at such election, and the mode and manner of conducting the same, shall be as is prescribed by this act for annual elections, and every sum of money so voted by any resolution of the said common council, to be raised by tax in the said city, and approved of by a majority of the whole number of lawful ballots cast in any such election, shall be assessed, collected and regulated, according to the forty-fourth section of this act, excepting so far as relates to the time of assessing and collecting said taxes, which time shall be fixed by the common council.

Notice of election.

Who may vote.

Ballots, what to contain.

May borrow in anticipation of taxes.

405. SEC. 23. That it shall be lawful for the common council of said city to authorize and direct the mayor and city treasurer to borrow, on the credit and in the name of said city, in anticipation of the collection of taxes in any one year, the sum of seven thousand five hundred dollars, and every such temporary loan or loans shall be fully paid and redeemed out of the moneys first received from the year's tax collection so anticipated.

Amount authorized to be raised may be increased or diminished by vote of the people.

406. SEC. 24. That the amount authorized to be annually raised by taxation for city purposes, as set forth in section twenty-one of this act, may be increased or diminished whenever such change is authorized by a vote of the people at any annual city election, notice having been given by authority of the council, and in the manner prescribed in section twenty-two of this act, that such proposed change will be submitted to the people at such election, and in like manner it may be provided that the amount to

be raised by taxation for said purposes shall be, instead of any fixed sum, such sum as a prescribed percentage upon the taxable property of said city will produce, and the common council may make all needful regulations for carrying out the provisions of this section.

Powers and duties of city judge.

407. SEC. 25. That the city judge shall be, at the time of his election, a practicing attorney-at-law; he shall have all the powers of justices of the peace in criminal matters, and in addition thereto he shall have jurisdiction and is hereby empowered, on oath or affirmation made according to law that any person or persons has or have been guilty of a violation of any of the ordinances of said city, to issue a process, either in the nature of a summons or of a warrant, as to him may seem most advisable, against the person or persons so violating such ordinance, which process shall, when in the nature of a warrant, be returnable forthwith, and when in the nature of a summons, be returnable in not less than three nor more than six days; that such process shall state what ordinance the defendant or defendants named therein has or have violated, and in what manner the same have been violated, and on the return of such process, or at the time to which the city judge shall have adjourned the same, the said city judge shall proceed to hear the testimony, and to determine and give judgment in the matter without the filing of any pleadings, and the city judge shall, if judgment be rendered for the plaintiff, forthwith issue execution against the goods and chattels, and against the body of the defendant or defendants; *provided*, that in all cases when the fine or penalty shall exceed twenty dollars, or when the punishment may be imprisonment, and in no other cases, there may be a trial by jury, to be conducted as in cases now triable by jury in courts for the trial of small causes.

Proviso.

Council to prescribe penalty for violation of ordinance.

408. SEC. 26. That the common council may prescribe, by ordinance, what shall be the extreme penalty for each violation of any of its ordinances; such penalty shall not exceed one hundred dollars fine, or sixty days' imprisonment, or both; and the court may, in its discretion, impose the same or any less penalty than that prescribed by said common council; and if the fine imposed be not paid, the party convicted of any such violation may be committed by the judge of said court, in his discretion, to the city or county jail, or such other place as the common council may provide, for any period not exceeding twenty days; all suits for the enforcement or violation of ordinances shall be brought before the city judge, or in the event of his absence or inability to act, from sickness or otherwise, then the said suits shall be brought before the mayor; and the proceedings before the mayor shall be conducted in the same manner as before the city judge, and the said mayor, for the purposes of such trials, shall possess all the powers vested in the city judge; the judgments rendered by the city judge or the mayor, when acting in the absence of the said judge, may be executed by any policeman of said city, and in the manner prescribed by the warrant, writ, execution or other process issuing out of the said court, and the said policeman to whom such process shall be delivered shall execute the same and make return thereof as set forth in such process; and the city judge or the mayor shall have power to commit to the jail of the county, and the jailer of said county shall receive and safely keep all persons who may be committed to the jail of said county by the city judge or mayor for the term expressed in the warrant of commitment, or until lawfully discharged, and all the expenses of keeping such persons shall be borne and paid by the said county.

Suits brought before whom.

Suits, how brought and prosecuted.

409. SEC. 27. That all suits for the violation of ordinances may be brought and prosecuted in the name of "the people of the city of ———," (naming the city), and the book of records of the ordinances and by-laws of the common council shall be taken and received as evidence of the due passage by said common council of all ordinances and by-laws recorded therein, and the publication, by the authority of the said common council, of their ordinances and by-laws in a volume or pamphlet shall, in like manner, be taken and received as evidence of the due passage thereof, and the publication of the said ordinances and by-laws in the public newspapers shall be presumed to have been made until the contrary be proved.

410. SEC. 28. That upon the trial of any issue or upon the judicial investigation of any fact, to which issue or investigation the city is a party or in which it is interested, no person shall be deemed an incompetent witness or juror by reason of his or her being an inhabitant of said city; and that if any person shall be sued or impleaded by reason of anything done by virtue of this act, it shall be lawful for such person to plead the general issue and to give this act and the special matter in evidence at the trial. Witness not to be deemed incompetent by reason of being an inhabitant of city.

411. SEC. 29. That the city judge shall have all the rights, powers and jurisdiction that justices of the peace have for the trial of civil actions before them; his court shall be a court of record, the proceedings in which shall be the same as in courts for the trial of small causes and subject to the same laws as far as applicable; judgments rendered in said court may be appealed from in all cases in which appeals are allowed in courts for the trial of small causes, in the same manner, and the common council shall provide a suitable and convenient place where the court of the city judge may be held. Court of city judge, &c., to be a court of record.

412. SEC. 30. That the name of the court in which the city judge shall hear causes shall be "the city court of———" (naming the city); in proceedings for the enforcement of city ordinances, he shall have the same powers as in the trial of civil actions; the impression of a seal, the device of which shall be prescribed by the common council upon any process or paper signed by him, shall be sufficient for all purposes; at the time specified in any process returnable before him, or to which any matter was adjourned, he may proceed to hear and dispose thereof; whenever it shall be necessary to give evidence of a judgment or other proceeding before him, the entry of such judgment or other proceeding on his docket, or a transcript thereof, certified by him, under his hand and seal, shall be sufficient evidence thereof; judgments rendered in said city court may be docketed in the office of the clerk of the county in the same manner, subject to the same restrictions and with the same effect as judgments rendered in courts for the trial of small causes. Name of the court. Proceedings in, &c.

413. SEC. 31. That all cases and matters pending in the city judge's court at the expiration of his term or resignation, or death or inability to serve, shall be continued before his successor, who shall have full jurisdiction of the same; all books and records of said court shall be the property of the city, and as such shall be preserved and transferred by the city judge to his successor. Proceedings pending at end of term to be continued before successor.

414. SEC. 32. That the officers empowered to serve processes issued by the city judge shall be, besides the constables elected or appointed within said city, the policemen of said city, and said processes shall be returned in the same manner, so far as circumstances may permit, as warrants for the arrest of persons, issued out of the courts for the trial of small causes are returned; and the defendant or defendants named therein shall, if the city judge sees fit to adjourn the hearing of the charge made, and so orders, enter into recognizance, as near as may be, in the manner directed in the courts for the trial of small causes, in the amount of penalty named in the process, or in any proceedings to be brought for the recovery of the same, with such surety as may be approved by the city judge unto the said city, by its corporate name, for his or their appearance on the day to which such hearing may be adjourned, and in default of such appearance, the said recognizance may be prosecuted and collected in the same manner as the same might have been if the said recognizance had been taken in a proceeding in courts for the trial of small causes. What officers empowered to serve processes.

415. SEC. 33. That the policemen of said city shall have the power to arrest and take into custody, without warrant, any offenders against the by-laws and ordinances of said city, and to confine said offender or offenders in a place provided by the said common council until a hearing can be had before the mayor or the city judge of said city; *provided*, that such hearing shall be held within twenty-four hours after the arrest of said offender or offenders, unless such arrest is made after two o'clock P. M. on Powers of policemen. Proviso.

Saturday, in which case the hearing shall be had before twelve o'clock M. on the following Monday.

Proceedings may be reviewed by appeal.

416. SEC. 34. That every conviction had before the city judge, either with or without a jury trial, may be reviewed by appeal to the court of common pleas of the county, in the same manner and upon the same terms as appeals are or may be taken from justices' courts; but such appeals shall be upon questions of law only, and in case the judgment appealed from shall be imprisonment, the said city judge, or any judge of the court of common pleas, may admit to bail the party appealing during the pendency of his appeal; but no judgment for the violation of any ordinance shall be reversed for any imperfection, omission, defect in or lack of form, nor for any error except such as shall or may have prejudiced the defendant in maintaining his defense upon the merits.

Proceedings in certioraris.

417. SEC. 35. That in all cases in which persons shall bring certioraris to remove the order, proceedings or judgment given or made by the said city judge, it shall be lawful for this said city judge to charge and receive before delivery of the return thereto at the rate of ten cents per folio for the same.

Party applying for certiorari to give surety.

418. SEC. 36. That no justice of the supreme court shall grant or allow any certiorari to remove any order, proceeding or judgment to be had or made by the city judge of said city, unless the party applying for such certiorari shall become bound to said city by its corporate title in the sum of one hundred and fifty dollars, with one or more good surety or sureties, conditioned that such applicants shall prosecute such certiorari in the supreme court, shall pay the penalty recovered before the said city judge, with interest and costs, if the judgment be affirmed, and shall, in all things, stand by and abide the judgment of the supreme court respecting the order, proceeding or judgment given or made by said city judge, which said bond shall be tendered to said justice granting such certiorari, to be by him filed with the clerk of the supreme court for the benefit of said city, and on failure thereof no certiorari shall be allowed.

Costs to be paid on affirmance by defendant.

419. SEC. 37. That if any proceedings of the said city judge shall, on removal by certiorari, be affirmed by the supreme court, the plaintiff in certiorari shall pay to the defendant all costs on such suit in the supreme court, but if such proceedings be reversed, then the plaintiff in certiorari shall not be liable to pay any costs; the provisions of this section and of the last preceding section shall extend to the circuit court of the county.

Power of excise board.

420. SEC. 38. That the excise board shall have the power of granting licenses to keep taverns and saloons and to sell spirituous and fermented liquors therein; and also to grant licenses to grocers for the sale of such liquors in bottles, casks or demijohns; *provided*, that such grocers' license shall not authorize sale of liquor to be drunk on the premises; the common council may regulate, by ordinance, the form, manner and contents of all applications to said excise board for licenses and the amounts to be paid therefor; and such ordinance may also prescribe the hours during which the sale of liquor shall be lawful, and make other proper regulations respecting the same; but the granting or refusing of all licenses for the sale of liquor shall be in the discretion of the excise board.

Proviso.

Not to sell without license.

421. SEC. 39. That no person shall, in any manner, sell or dispose of spirituous or fermented liquors unless licensed so to do by said excise board; but this prohibition shall not include the sale by apothecaries of liquors for medicinal purposes.

Penalty for illegal sales.

422. SEC. 40. That whenever it shall appear by the judgment of a court of competent jurisdiction that any person licensed to sell liquor has willfully violated any law or ordinance respecting the sale of liquor, or has knowingly permitted such violation by any person in his employ, his license may be revoked by said board; and no part of the money paid for such license shall be refunded on account of such revocation.

Treasurer and collector to give bond.

423. SEC. 41. That the treasurer and collector, before they enter upon their respective offices, shall each execute a bond to the city, conditioned for the true and faithful performance of all the duties of their said offices,

in such sums and with such freehold security as the common council shall approve and direct.

Powers and duties of election officers, assessors, &c.

424. SEC. 42. That the clerks of election, judges of election and inspectors of election, assessor, collector and commissioners of appeal shall respectively possess the power 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; the city clerk shall attend all meetings of the common council of said city, keep accurate minutes of their proceedings and insert the same in a book to be provided for that purpose, and in like manner record all ordinances passed by the common council; he shall, within three days after the election or appointment of any person to any office, in pursuance of this act, notify, in writing, such person of his election or appointment, and shall do and perform all such other duties as the said common council may, from time to time, prescribe; and the powers and duties of the treasurer and street commissioner, if not otherwise provided for in this act, shall be those enjoined by the ordinances of the said common council.

Treasurer to receive and pay all moneys and make annual statement.

425. SEC. 43. That it shall be the duty of the treasurer of said city to receive and pay out all moneys belonging to the said city, under the direction and by the authority of the said common council; to make out, annually, on the second Tuesday in December, or oftener, should the said common council so require, and publish in two newspapers printed in said city, if so many 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 of such statement.

When taxes to be assessed, collected, &c.

426. SEC. 44. That the city assessor shall, with strict impartiality, assess taxes upon all taxable persons and property within the said city, between the first day of May and the first day of July, annually, and the city collector shall collect the same between the first day of July and the first day of September, annually, and shall, on the first Monday in September, annually, return to the city judge the names of all delinquents, with the sums due from them respectively; said city judge shall thereupon issue his warrant or warrants to the city policemen, or any of them, or such other person as the common council shall, for that purpose, nominate and appoint, requiring him or them to levy the tax so in arrears in the manner in which taxes are levied in the townships of the state; and such officers shall be entitled to the same fees as are paid for the like services in such townships.

Delinquent taxes.

Commissioners of appeal, when to meet, &c.

427. SEC. 45. That the commissioners of appeal in cases of taxation shall meet annually, on the third Tuesday of July, and at such other times as the common council may designate, in the event of an extra tax is ordered to be raised, to hear and determine all complaints of unjust taxation; they shall sit from two o'clock P. M. until five o'clock P. M., 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 two newspapers printed in said city, if so many there be, at least ten days previous to such assembling.

Duties of constables, poundkeepers and overseer of the poor.

428. SEC. 46. That the constables, poundkeepers and the overseer of the poor, shall perform such duties as by the laws and usages of this state now appertain to and devolve upon such officers in the townships of this state, subject to the provisions of this act, or any ordinance or ordinances passed by virtue thereof, and the collector of revenue shall pay over all moneys received by him for the city as soon as collected, to the treasurer of said city, who shall pay over to the collector of the county the full quota of taxes required by law to be raised in said city for state and county purposes, so far as the same may have been collected.

Corporation counsel.

429. SEC. 47. That the corporation counsel shall appear for and represent the city in all suits, actions and special proceedings to which it is a party; he shall also give his opinion on any question of law that may be submitted to him by the mayor, common council or board of excise; *provided*, that such question shall concern the rights, powers or duties of the city, or of some officer or department thereof.

Proviso.

Term of office of officers appointed by the mayor.

430. SEC. 48. That all officers appointed by the mayor, with the advice and consent of the council, shall hold office during the term of the mayor by whom they were appointed, and until their successors are in like manner appointed; and such officers shall not be appointed, except with the consent of a majority of all the members of the common council, and may, for proper cause, be removed by the said common council.

Oaths of office to be taken within ten days after election or appointment.

431. SEC. 49. That every officer of the city shall, within ten days after his election or appointment and before entering on the duties of his office, take and subscribe before the mayor, city judge or a judge of the court of common pleas of the county, an oath or affirmation that he will faithfully and justly perform all the duties of his office to the best of his ability, and it shall be the duty of the city clerk to file and preserve the said oaths and affirmations in his office.

Proceedings for opening of streets, roads or highways.

432. SEC. 50. That it shall be lawful for the said common council, by ordinance, to lay out or open any street, road or highway in any part of the said city, and to cause any street, road, highway or alley already laid out in any part of the said city to be vacated, opened, altered or widened whensoever and so often as they shall judge the public good requires the same to be done; and the said common council shall give a written or printed notice to the owner or owners of any land or real estate necessary to be taken for either of said purposes, or to his, her or their legal representatives, of their intention to take such land or other real estate and appropriate it for such street, road, highway or alley, and shall treat with such person or persons for the same; and if any such person or persons shall refuse to treat for any such land or other real estate, or the said common council cannot agree with such person or persons for the same, then it shall be lawful for the said common council to appoint three judicious and disinterested citizens of said city, as commissioners to make an estimate and assessment of the damages that any such owner or owners will sustain by opening, laying out, altering or widening any such street, road, highway or alley, and to ascertain the whole amount of damages and expenses incident to such laying out, opening, altering or widening, and to make a just and equitable assessment thereof among the owners and occupants of all the lands, tenements and real estate benefited thereby, in proportion to the advantages each shall be deemed to acquire; and in case the council shall agree with every owner of land necessary to be taken, respecting the same, then such commissioners shall be appointed for the purpose of assessing said damages and expenses among the owners of land benefited thereby, in the manner aforesaid.

Notice to be given of the time and place of meeting of the commissioners.

433. SEC. 51. That the said common council shall appoint a time and place within the said city for the said commissioners to meet, notice whereof shall be given by advertising the same in two newspapers printed in the city, if so many there be, two weeks before the time of meeting, which notice shall specify the street, road, highway or alley proposed to be laid out, opened, altered or widened, the alterations proposed to be made and the lands or real estate intended to be taken for such purposes; and the said commissioners, or a majority of them, when met, shall have power to swear and examine witnesses, and shall view the premises, if necessary, and make just and true estimates and assessments, and report their proceedings to the common council sufficiently, in detail, to enable the common council to determine the principle upon which such estimates and assessments were made; such report shall be filed with the city clerk and be open to the inspection of the public for ten days previous to its presentation to the common council, and notice of such filing shall be published in two newspapers, if there shall be so many printed in said city, at least ten days previous to such presentation; parties interested may file with the city clerk written objections to said report, stating the nature and extent of their interest and the grounds of their objections to it; all such objections shall be filed within ten days after the first publication of the notice of the filing of the report; the said commissioners shall have full power to reconsider and change their report, if objected to, or, if they refuse so to do, either in whole or in part, they shall deliver such objections with their

report to the common council, and the common council may ratify the action and report of the commissioners, or alter said report in respect to the matter specified in the objections, or the said common council may recommit the report to the commissioners for further consideration in respect to such matters, or any other matter connected therewith; and in the event of a recommitment, the said commissioners shall, as far as may be necessary, comply with all the requirements of this section; when the common council shall have taken final action upon said report, it shall be binding and conclusive upon the owner or owners of any lands or real estate affected thereby, subject only to the appeal hereinafter given; and upon payment of the damages so awarded, or upon a tender and refusal thereof, it shall be lawful for the common council to cause the said land or real estate necessary to be taken as aforesaid, to be entered upon and used for the purposes of the contemplated improvement; *provided*, *however*, that any person whose lands may be so taken may appeal from the proceeding of said common council to the circuit court of the county within thirty days from the time of making the final order of the common council, and within the same period shall notify the city clerk of such intended appeal; the said circuit court shall order a trial by jury to assess the damages sustained by the party aggrieved, such trial to be conducted as are other trials by jury.

Appeal.

434. SEC. 52. That if no such appeal to the circuit court be taken, the persons whose lands shall have been taken shall be entitled to receive from said city, within sixty days from the time of making the final order of the council, the amount of damages sustained by them respectively, with interest from the date of said final order, and may, after the said period of sixty days, sue for and recover the same from the said city in an action of debt, with costs, in any court having cognizance thereof, and the said proceedings of the said commissioners and common council, or the award of the said jury, as the case may be, shall be conclusive evidence against the defendants.

Proceedings in case appeal is not taken.

435. SEC. 53. That in case the common council and the owner of any such land or real estate shall agree upon the sum to be paid therefor, such sum shall constitute a part of the whole amount of damages and expenses to be assessed under and in pursuance of the provisions of section fifty of this act.

Amount of damages and expenses to be assessed.

436. SEC. 54. That it shall be no valid objection against laying out or opening any highway, street or road in said city, that the ending-point of the same is not in a public highway; *provided*, the same be laid out or opened in conformity with the provisions of this act.

When objections to opening street shall not be valid.

437. SEC. 55. That it shall be lawful for the common council to pass ordinances for the grading, graveling, paving or macadamizing of any street or section of a street, and for the construction of drains and sewers; and appoint in each case three commissioners, who shall, after the completion of the work, ascertain the whole expense thereof, and assess the same upon the owners of all real estate benefited thereby, in proportion to the benefit each shall receive therefrom; and any ordinance for the grading of a street shall include the sidewalk as a part of such street; a report in writing of such assessment, signed by a majority of such commissioners, being returned to the common council, and ratified by them, shall be binding and conclusive upon the owners and occupants of such lands, tenements and real estate to be assessed, respectively; all the provisions of section fifty-one, relating to the report and filing of the same, and giving notice thereof, and the subsequent proceedings thereon, so far as the same may be applicable, shall be regarded as appertaining to this section.

Ordinances for grading, graveling or paving streets, &c.

Expenses to be assessed upon owners benefited.

438. SEC. 56. That it shall and may be lawful for the common council of said city to make and establish ordinances and regulations for curbing, paving, flagging, graveling, cementing or planking any sidewalks in any street or section of a street in said city, by the owners or occupants of lands, tenements or real estate fronting on or adjoining such street or section of a street, and to appoint one or more discreet and skillful person or persons to superintend the said work and prescribe the manner in which

Curbing, paving, flagging or planking sidewalks, &c.

the same shall be performed, and to enforce such ordinances and regulations by enacting penalties for non-compliance therewith.

Proceedings when owners neglect or refuse to repair sidewalks.

439. SEC. 57. That if the owner or owners of any lands, tenements or real estate, in front whereof the sidewalks shall, by such ordinance or regulation, be directed to be curbed, paved, graveled, flagged, cemented or planked, shall neglect to comply with such ordinance or regulations, it shall be lawful for the said common council to cause such improvement to be made at the expense of the city, on account of the owners of such real estate; the person or persons appointed to superintend such work shall report to the common council the names of the owners neglecting to comply with such ordinance, the number of front feet owned by each and the expense of performing such work according to the ordinance; the provisions of section fifty-one, relating to filing the report and the subsequent proceedings thereon, so far as the same may be applicable, shall be regarded as appertaining to this section; the amount paid or agreed to be paid by the city for such work shall be a lien on such real estate from the time of its completion; such amount paid or agreed to be paid shall, by resolution of the common council, be assessed upon the owner or owners of such lands, tenements or real estate, in proportion to the number of their frontage feet.

Assessment to be paid within thirty days after confirmation of assessment.

440. SEC. 58. That all persons, owners of any lands, tenements or real estate assessed under any provision of this act, shall, respectively, within thirty days after the confirmation of such assessment, pay to the city treasurer the sums at which such lands, tenements and real estate shall be assessed; on default of such payment or any part thereof, it shall be lawful for the mayor or city judge of said city, by direction of the common council, to issue a warrant, under the common seal, to levy the same by distress and sale of goods and chattels of such owner or occupant refusing or neglecting to pay the same, rendering the overplus, if any, after deducting the charges of such distress, to such owner or occupant or his or her legal representatives; *provided always*, that nothing in this section contained shall affect any agreement between landlord and tenant respecting the payment of any such charges; *and provided further*, if any such assessment or any part thereof shall be paid by any person, when, by agreement or by law, the same ought to have been borne or paid by some other person, then it shall be lawful for the person paying the same to sue for and recover the same, with interest and cost of suit, before any court having cognizance thereof, as so much money paid for the use of the person who ought to have paid the same; and the assessments aforesaid and proof of payment shall be conclusive evidence in said suit; and in all cases where there is no agreement to the contrary, the owner or landlord, and not the occupant and tenant, shall be deemed the person who ought to bear and pay every such assessment.

Proviso.

Proviso

Proceedings in case assessment is not paid within time specified.

441. SEC. 59. That in case any assessment made as aforesaid shall not have been complied with by the payment of the sums thereby assessed, within thirty days, as aforesaid, the common council shall cause a notice to be published in one or more public newspapers printed in said city, for at least one month, requiring the owner or occupant of such lands, tenements and real estate, respectively, to pay the sums at which the same shall have been assessed, together with all the interest, costs and expenses that shall have accrued thereon, to the treasurer of said city, and that, in default of such payment, such lands, tenements and real estate will be sold at public auction, to satisfy such assessment, and the interest, costs, charges and expenses thereof, which notice shall be signed by the city clerk, and shall contain a brief description of the premises to be sold, and shall state the purpose and amount of the assessment against the same, with the costs, charges and expenses, and the day, hour and place of such sale; and copies of such notice shall be posted in five public places in such city, at least four weeks before such sale; it shall be lawful to sell said lands and premises, pursuant to said notice, at public auction, for the shortest term for which any person or persons will agree to take the same

and pay such assessment, interest, costs, charges and expenses; if, at any such sale, there shall be no other bidders, the city treasurer may, in the name and for the use of the city, purchase the property offered for sale for the term of one hundred years; and the city treasurer shall execute, under the common seal of said city, a certificate of said sale, and deliver the same to the purchaser or purchasers within ten days after the sale; *provided*, that it shall not be lawful to sell the same until sixty days after the completion and return of said assessment nor until thirty days after the owner or owners of said real estate shall have been notified to pay said assessment; such owners shall be notified by the service of a written notice upon each of them personally or by leaving the same at his place of residence or business, with some person of the age of fourteen years or over, or by affixing the same to the outer door of the house where such owner resides; but if any owners do not reside in the state of New Jersey, or if their places of residence or business cannot, with reasonable diligence, be ascertained, the publication and posting of notices hereinbefore directed shall be deemed sufficient notice to them; *provided*, that in every case where the post-office address of a non-resident owner shall be known to the city clerk, or can, with reasonable diligence, be ascertained by him, a copy of such notice shall be deposited in the post-office, directed to him at such address, with the postage prepaid.

Proviso.

Proviso.

Redemption of lands sold for assessment.

442. SEC. 60. That the owner, mortgagee, occupant or any other person or persons, having a legal or equitable interest in any lands or real estate sold for assessments, as aforesaid, may redeem the same at any time within two years from the time of such sale, by paying to the city treasurer, for the use of the purchaser, his heirs or assigns, the said purchase-money, together with any other assessment properly chargeable thereon and which the purchaser may have paid, with the interest on said purchase-money, at the rate of twelve per centum per annum, from the time of such sale or from the time of such payment, and the certificate of said treasurer, stating the payment and showing what property such payment is intended to redeem, shall be evidence of such redemption, which sum of money, so paid, the said treasurer shall cause to be refunded to the purchaser, his heirs and assigns.

Rate of interest.

Declaration of sale in case lands are not redeemed.

443. SEC. 61. That if any lands or real estate, so sold, shall not be redeemed, as by this act provided, the common council shall cause to be executed to the purchaser, his legal representative or assigns, a declaration of sale, under the seal of the city, signed by the mayor, attested by the city clerk, containing a description of the premises, the fact of assessment, advertisement and sale, the date of the sale and the period for which the premises were sold, which declaration shall be recorded in the office of the city clerk, and until the same shall have been recorded, such lands and real estate may be redeemed as hereinbefore provided, notwithstanding the period of two years may have expired from the time of said sale, and such declaration of sale shall be presumptive evidence that such sale and proceedings were regularly made according to the provisions of this act, and such purchaser or purchasers, and his and their legal representatives shall, by virtue thereof, lawfully hold and enjoy such lands and real estate, with the rents, issues and profits thereof, for his and their own proper use against the owner or owners thereof, and all persons claiming under him or them, until the term shall be completed and ended for which the purchaser or purchasers may have agreed to take the same, and such purchaser or purchasers, and his, her or their legal representatives shall be at liberty to remove all the buildings and materials which he, she or they shall erect or place thereon; and at the expiration of said term shall peaceably and quietly yield up said lands and real estate to the lawful owner or owners thereof and shall be liable for any injury or waste by him or them done or committed therein, in the same manner as the tenant for a term of years; *provided*, that whenever satisfactory evidence shall be produced to the common council that any lands so sold belong to an idiot, lunatic or infant, for whose estate no guardian shall have been appointed, the said common council shall direct the mayor and city clerk to postpone the execution of

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a declaration of sale of such lands until at least four months after they shall have evidence that such disability has been removed, or guardian or trustee to their estate appointed, and until the expiration of said four months, such guardian or trustee, or person whose disability has been removed, may redeem such lands as hereinbefore provided.

Certificates of sale and assignments to be recorded.

444. SEC. 62. That it shall be the duty of the city clerk to record, in proper books kept for that purpose, all certificates of sale and assignments thereof, to give certificates of search in relation thereto to any person applying for the same, and to cancel such certificates of sales and assignments thereof so recorded when the land and real estate for which they were given shall be redeemed, on certificate of the city treasurer of such redemption, and file such certificate in his office; it shall be the duty of the city treasurer to make out two receipts for all property redeemed, one for the person redeeming and one to be filed in the office of the city clerk.

Assessments to be and remain a lien on lot or lots assessed.

445. SEC. 63. That the amount of any assessment shall be and remain a lien on the lot or lots assessed from the time of the completion and return of such assessment in manner aforesaid, until the same shall be paid and satisfied, and that it shall be lawful for the said common council, instead of the remedies hereinabove provided, if they shall see fit, in case of a refusal or neglect to pay any assessment made as aforesaid, to sue for and recover the amount of such assessment from the person or persons who ought to pay the same, or his, her or their legal representatives, with interest and costs of suit, in any court having cognizance thereof, in an action on the case for so much money by them paid, laid out and expended for such person or persons, his, her or their legal representatives; and the said assessment shall be conclusive for the plaintiff in every such action.

When to be recognized as a public street.

446. SEC. 64. That no street, road, highway or alley hereafter to be laid out or opened in said city, shall be recognized, considered or treated as a public street or highway, road or alley, unless the same be laid out and opened under the direction of the said common council in manner aforesaid.

Proceedings in case owner or owners are non-resident, &c.

447. SEC. 65. That in case any owner or owners of any land or real estate necessary to be taken for the laying out, opening, altering or widening any street, road, highway or alley in the said city, shall be non compos mentis, or out of the state, or cannot be found on reasonable inquiry, and no agent or legal representative of such owner can, on like inquiry, be found in this state, then it shall be lawful for the common council of said city to proceed to the appointment of the commissioners mentioned and provided for in the fiftieth section of this act, after publishing in a newspaper printed in said city, for the space of two weeks, at least once in each week, a notice of the intention of said common council to take such land or real estate and appropriate it for such street, road, highway or alley.

Proceedings where owner is under age, &c.

448. SEC. 66. That in case the owner or owners of any lands, tenements or real estate assessed under any of the provisions of this act, under age, non compos mentis, out of the state, or cannot be ascertained on reasonable inquiry, made under the directions of the common council, and the assessment made on such lands, tenements or real estate remain unpaid for the space of thirty days after the same shall be made, it shall be lawful for the common council, without demand from such owner or owners, to proceed to the advertisement first mentioned in the fifty-ninth section of this act and the sale provided for in said section, in the manner in said section pointed out.

Deductions to be allowed to tenants for curbing and paving, out of rent due landlord or owner.

449. SEC. 67. That if the tenant or tenants of any lands, tenements or real estate within said city shall cause the sidewalk in front thereof to be curbed, paved, flagged, graveled, cemented or planked, in obedience to an ordinance or regulation, at his, her or their own expense, it shall be lawful for him, her or them to deduct the same out of the rent or recover the same from the landlord or owner or owners, or his, her or their legal representatives, with the interest and costs, in an action on the case before the mayor or city judge of said city, or in any court having cognizance thereof, for so much money by him, her or them paid, laid out and expended to or for his or their use; *provided*, that nothing in this act shall affect any contract

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or agreement made or to be made between landlord and tenant respecting such charges or expenses.

Stone crosswalks may be laid at city expense.

450. SEC. 68. That it shall and may be lawful for the common council of said city to cause stone walks to be laid across any street at the general expense of said city.

Rate of interest on assessments.

451. SEC. 69. That it shall and may be lawful for the common council of said city to specifically define by ordinance, the manner in which all assessments shall be levied and collected, and to make such regulations as may be necessary to carry into effect the true intent and meaning of this act; that any assessment made by virtue of the provisions of this act shall bear interest at the rate of twelve per centum per annum after thirty days from the day the same is ratified by the city council, and not before, and shall continue and remain a lien upon the lands and real estate so assessed until the said assessment, with the interest and expenses accruing thereon, shall be paid or the amount thereof discharged by the sale of the said lands or real estate by the city, and it shall be the duty of the city clerk to send by mail written notices of the ratification of any assessment to each person assessed thereby, within five days after such ratification.

Assessments not to be in excess of benefits.

452. SEC. 70. That no lands or real estate shall be assessed for any street or sewer improvement a greater amount than such lands or real estate shall be benefited by such improvement; and in case the whole expense of any such improvement shall exceed the amount assessable for the benefits, then the balance of such expense shall be paid out of the city treasury.

Assessments to be a first lien.

453. SEC. 71. That all taxes and assessments, which shall be levied, assessed or made upon any lands or tenements within the said city, shall be and remain a first lien thereon until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereon.

Proceedings for collection of delinquent taxes.

454. SEC. 72. That in [case] any taxes, levied under this act, together with the interest thereon, and costs, fees, charges and expenses aforesaid shall remain unpaid and in arrears for the space of six months from and after the time when payable, then and in every such case, it shall be lawful for the common council of said city, or a majority of them, to issue their warrant, which warrant may include the names of any number of delinquent owners and the description of each of their lands, tenements, hereditaments or real estate, on account of which such taxes were assessed, under the common seal of said city, signed by the mayor thereof and attested by the city clerk, directed to the collector of the said city, therein and thereby commanding him to make said taxes, with the interest, costs, fees, charges and expenses as aforesaid, out of the lands, tenements, hereditaments or real estate, on account of which the same were assessed and incurred as aforesaid, by selling the same, or any part thereof, as will be sufficient for that purpose, for the shortest term for which any person or persons will agree to take the same and pay such taxes, with the interest thereon, and all costs, fees, charges and expenses, and further directing the said collector to make return of said warrant, with all his proceedings thereunder in writing, within four months from the date thereof, to said common council.

Warrant to be recorded.

455. SEC. 73. That the said warrant shall be recorded by the clerk of said city, before its delivery to said collector, in a book provided for the purpose, to be known as the "record of tax sales."

Collector to give notice of time and place of sale.

456. SEC. 74. That it shall and may be the duty of the said collector, before he sells, by virtue of such warrant, to give public notice of the time and place of such sale of any lands, tenements, hereditaments or real estate under this act, by advertisement, signed by such collector, in two newspapers printed and published in such city, if so many there be, and if only one newspaper, then in such paper, wherein such lands, tenements, hereditaments or real estate are situate, once in each week, for at least four weeks successively next preceding the time appointed for such sale, and shall forthwith mail a copy of such notice to the owner or owners, directed to him, her or them, at his, her or their last-known post-office address, with full postage prepaid thereon; *provided*, such sale may be adjourned on application of the owner or other person interested therein, or because of no bidders, from time to time, not exceeding sixty days, in which case

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a short notice of such adjournment shall be published in the said newspapers or newspaper.

Collector to deliver to purchaser certificate of sale.

457. SEC. 75. That it shall and may be lawful for the said collector, at the time and place specified in the above notice, or at the time and place to which he shall adjourn as aforesaid, to sell and strike off such lands, tenements, hereditaments or real estate set forth in such warrant, or any part thereof, to such person or persons as will agree to take the same for the shortest term and pay such taxes as may be assessed as aforesaid on account thereof, and the interest thereon, and all costs, fees, charges and expenses touching the same, such payment to be made in all cases before the conclusion of such sale, and if not so made the collector shall resell the property; and that within ten days thereafter the said collector shall deliver to the purchaser a certificate of such sale, under his hand and seal, and duly acknowledged according to law; such certificate shall contain a description of the property, the term for which sold, the amount of tax, interest, costs, fees, charges and expenses in detail, the year for which assessed, the time when the right to redeem shall expire and the date of the warrant under which the sale was made.

Collector to make return of warrant with all proceedings thereunder.

458. SEC. 76. That the said collector shall make return of said warrant within the time required therein, together with all of his proceedings thereunder, in writing, and he shall annex thereto all notices required by this act to be by him given, published, mailed and posted, with due proof of such publication, posting and mailing, together with a true copy of the certificate of sale and acknowledgment referred to in the preceding section, and that he shall annex to said return, an oath or affirmation in writing, that the said return is true, full and complete in all respects, and that the same sets forth all of his acts and proceedings under said warrant, and that true copies of all the notices required by him to be given by this act are annexed thereto, and that the certificate of sale thereto annexed is a true copy of the original given by him to the purchaser.

Return to be recorded.

459. SEC. 77. That the clerk of said city shall record such return (the warrant only excepted) and the papers thereto annexed, in the aforesaid "record of tax sales," at length immediately succeeding the record of such warrant, space being reserved for the purpose.

Certificate of sale to be recorded in office of county clerk.

460. SEC. 78. That the purchaser shall cause such certificate of sale to be recorded in the county clerk's office within the county where the lands are situate, within twenty days from the receipt thereof, and that thereupon he shall be entitled to the immediate possession of the property described in said certificate and to all the rents, issues and profits arising therefrom on and after the date of such certificate, and in case the said premises are occupied by the owner or owners thereof, the purchaser shall give notice in writing to such owner or owners, either personally or by leaving the same with some member of his family over fourteen years of age, and informing him of the contents thereof, of such sale, and demanding possession of such premises within thirty days after service thereof as aforesaid, and at the same time exhibit to the person so served, the aforesaid certificate, and if at the expiration of the said thirty days the said owner or owners shall not deliver up possession thereof, then and in that case the purchaser may take the same proceedings to gain possession of such lands and premises, as purchasers under execution issued upon a judgment at law.

Property may be redeemed within two years from date of sale.

461. SEC. 79. That the owner or owners, mortgagee, occupant or any other person having a legal or equitable interest in any lands, tenements, hereditaments, or real estate sold for taxes as aforesaid, may redeem the same at any time within two years from the date of such sale by paying to the purchaser or his legal representative the amount of purchase-money set out in detail in said certificate, with twelve per centum interest thereon, together with such other fees, costs, expenses and charges as may have been incurred by the purchaser under the provisions of this act, and the purchaser, upon receiving such payment, if made by the owner or owners thereof, shall reconvey and restore to such owner or owners such real estate, and in case the owner or holder of any estate in, lien upon or right

of possession of such real estate so sold shall pay to the purchaser within the said two years the aforesaid purchase-money, interest, fees, costs, expenses and charges, the sale shall be of no farther effect, and the mortgagee or other person so redeeming shall have a lien on the said premises for the amount paid, with twelve per centum interest thereon, in like manner as if the same had been included in his, her or their mortgage or other lien.

Proceedings to be had by common council in case of non-redemption of lands sold.

462. SEC. 80. That in case such lands, tenements, hereditaments or real estate so sold shall not be redeemed within the time provided for by this act, then and in that case the common council, upon due proof being made by affidavit that such redemption has not been made, and upon the surrender of such certificate, shall execute and deliver to the purchaser, his legal representatives or assigns, at his or their expense, a deed for the same under the common seal of the city, signed by the mayor thereof, and attested by the city clerk, and acknowledged according to law, which deed shall contain a description of the property, the year of the tax assessment, the fact of advertisement and sale, the date of sale and the period for which the premises were sold, and which deed shall be recorded in the clerk's office of the county where the lands are situate within ten days after date thereof, and if not so recorded, the same shall be of no effect until so recorded, as against a mortgagee or purchaser in good faith, and the right of redemption shall also continue until such record, notwithstanding the lapse of the aforesaid two years; and that such purchaser or purchasers, and his and their legal representatives, upon complying with the provisions of this act, shall, by virtue thereof, lawfully hold and enjoy said lands, tenements, hereditaments or real estate, for and during the term for which he, she or they shall have purchased the same for his, her or their own proper use, benefit and advantage, against the owner or owners thereof, and against all and every person or persons claiming under him, her or them, and against any and all other estates therein, whether legal or equitable, and against any and all mortgages, alienations, devise, descent, lien and incumbrances of every kind and nature, as fully and completely as though there were no other estates, mortgages, alienations, devise, descent, liens or incumbrances of, in, upon or against said property or any part thereof, until said term shall be fully completed and ended, and the purchaser shall be at liberty, at or before the expiration of the said term, to remove any building or buildings and materials erected and placed by him, her or them thereon, and when said term shall have ended shall peaceably and quietly yield up the same to the lawful owner or owners thereof in as good state and condition as when he took possession of the same, damage resulting from ordinary use and the elements excepted.

Record of tax sales to be evidence.

463. SEC. 81. That the aforesaid "record of tax sales" shall be received in all courts as presumptive evidence of the regularity of the proceedings therein recorded, and the aforesaid deed shall be presumptive evidence in all courts and places that such sale and proceedings were regularly made and had according to the provisions of this act.

Notice to be given to mortgagee, &c.

464. SEC. 82. That no sale of lands, tenements, hereditaments or real estate made in pursuance of this act shall destroy or in any manner affect the lien of any mortgage thereon duly recorded or registered at the time of such sale, unless the purchaser shall give to such mortgagee or mortgagees within three months from the date of such sale, notice in writing, setting forth the date of such sale, the amount of purchase-money, the description of the property as contained in the certificate of sale, the date when the limit of redemption shall expire and a reference to this act, which notice shall be served personally or by leaving the same with a member of his family over the age of fourteen years, and if he cannot be found, then by mailing the same, inclosed in an envelope, plainly directed to him, her or them, at his, her or their last-known post-office address, with full postage prepaid thereon, and the purchaser shall, within twenty days after the service of said notice, transmit a true copy of such notice, with due proof of service, to the clerk of the county in which such lands are situate, and which notice shall be recorded and indexed in the same

book in which mortgages are recorded, and a marginal note made thereof in the book where the original mortgage is recorded or registered, for which service the county clerk shall receive the sum of eight cents a folio, to be paid by the purchaser.

Return of unpaid taxes to be made annually.

465. SEC. 83. That it shall be the duty of the city collector of said city, on or before the first day of February in each year hereafter, to make return, in writing, to the clerk of the county in which said city is situate, of all unpaid taxes assessed the preceding year on real estate situate in said city, setting forth against whom assessed, the date, description of the property, the amount of tax thereon, to which he shall affix an oath or affirmation, in writing, to the effect that the sum is just, true, full and complete in every particular, as shown by his tax duplicate, and for such service he shall be paid by said city the sum of two cents for each name so returned; and in case the said collector shall neglect or refuse to make such return as herein provided, he shall forfeit and pay to the city the sum of one hundred dollars, to be recovered in an action of debt in any court of competent jurisdiction.

Returns to be recorded.

466. SEC. 84. That the clerk of said county, upon receipt of such returns, shall record the same at length, in separate books provided for the purpose, respectively, for each city in his county, and shall properly index the same, which books shall be at all times open for public inspection, free of charge, and the said clerk shall receive for the aforesaid service the sum of five cents for each name in said return, to be paid by the city returning the same; and it shall be lawful for said clerk, in making searches, on request, for unpaid taxes, to charge ten cents per year for each name searched against.

When tax shall cease to be a lien.

467. SEC. 85. That in case such tax return shall not have been made at the time herein provided, or in case a name or names shall have been omitted from such return, then, and in that case, such tax shall cease to be a lien upon such real estate as against a purchaser or mortgagee in good faith.

Fees and expenses incurred shall be paid by delinquent.

468. SEC. 86. That upon the payment of such taxes so returned, the fees, charges and expenses incurred for services rendered under this act shall be included in the amount to be paid by the delinquent, and that upon payment of such taxes, costs and expenses, the collector who shall receive the same shall give a certificate of satisfaction thereof, duly acknowledged, to the person paying the same, and that upon presentation thereof, the clerk of the county shall satisfy such tax record in the same manner as mortgages are by law satisfied, and shall file such satisfaction-piece in his office.

Portion of cost of altering or widening street may be assessed on railroad company using street.

469. SEC. 87. That whenever any street, or part of any street, in the said city, occupied or used by the track of any railroad company, shall require to be altered or widened for the convenience of public travel, or graded, paved, graveled or macadamized, and proceedings for altering or widening, or grading, paving, graveling or macadamizing the same shall have been taken, under the provisions of this act, it shall be lawful for the commissioners appointed by the city council, and whose duty it shall be to make a just and equitable assessment of the whole amount of the costs, damages and expenses of such altering, widening, and the costs and expenses of such grading, paving, graveling or macadamizing among the owners of all the lands and real estate benefited thereby, to assess such portion of said costs, damages and expenses upon the corporation or company owning or using said railroad track as shall to them seem equitable and just, and such assessment shall be a lien upon any property of said corporation or company in the city, and may also be enforced in the same manner as the assessment upon such owners of land and real estate benefited thereby.

Work that may be done by resolution and not by ordinance.

470. SEC. 88. That whenever any ordinance shall be passed by the common council for making any improvements or performing any work in relation to the opening, altering or widening any street, the construction of any sewer or drain, the widening, leveling, grading, curbing, guttering, paving, flagging, graveling or planking any street or sidewalk, all further

action which may be necessary to carry out and complete such improvement or work, and all orders relating thereto, may be done by resolution and not by ordinance.

When remonstrance shall prevent improvement.

471. SEC. 89. That no street, road, highway or alley shall be opened, extended, altered, widened, graded, graveled, paved or macadamized, and no sidewalk shall be curbed, flagged, planked or cemented against the written remonstrance of persons owning one-half of the frontage on said street, road, highway, alley or sidewalk, or the portion thereof proposed to be improved; such remonstrance to be presented and filed with the city clerk within fourteen days after he shall have published in the city newspapers the intention of the said common council to pass ordinances authorizing such improvements to be made.

Street may be paved on petition of owners.

472. SEC. 90. That upon the petition of the owners of not less than three-fourths of the frontage of any street, or section of a street, the common council shall direct such street, or section of a street, to be paved or macadamized according to such petition, assessing the cost thereof according to law; *provided*, that such street, or section of a street, shall not be less than one block.

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Commissioners of assessments to take oath, &c.

473. SEC. 91. That all commissioners appointed by said common council for the purpose of making assessments, before they enter upon the execution of the duty required of them, shall be sworn or affirmed before the mayor or any person authorized by law to administer oaths, to make the assessment and estimate submitted to them fairly and impartially, according to the best of their skill and judgment, and the said common council may remove such commissioners and appoint others for any cause that to said common council may seem just; and in case of the resignation, death or disability of one or more of such commissioners, it shall be lawful for the common council to fill, by appointment, the vacancy or vacancies thus created, without prejudice to any proceeding already taken by such commissioners.

May be removed for cause.

Proceedings in case any assessment shall be set aside by judicial authority.

474. SEC. 92. That whenever, by reason of any informality or illegality in any proceedings of the common council, or of the commissioners of assessments, surveyors or other agent of the common council, or officers of the city, in laying out, opening, altering, widening or closing streets, avenues or public squares, or in grading, altering the grade, paving, curbing, guttering and flagging the sidewalks of any street or avenue, or constructing any sewer or drain, any assessment shall be set aside by judicial authority, it shall be lawful for the common council to re-institute the proceedings set aside upon the same basis upon which the original proceedings were based, or otherwise if they shall see fit so to do, and lawfully proceed therein the same as though the former proceedings had not been had; or the said common council may re-institute said proceedings from the point where such informality or illegality may have been so decreed, and whenever the common council shall discover that any such proceedings are liable to be set aside by judicial authority, they may re-institute said proceedings from the point where such informality or illegality commences, and no assessment shall be deemed invalid in consequence thereof; but no writ of certiorari shall be allowed, or issue to remove any assessment made upon the owner or owners of land and real estate for any work or improvement made or to be made, unless the same be applied for within six months after the confirmation of such assessment by the common council of said city, and this section shall apply as well to all proceedings heretofore set aside by judicial authority by reason of any informality or illegality as to those which may hereafter be so set aside.

May contract for construction of water works.

475. SEC. 93. That any individual, firm or corporation, organized for that purpose, may contract with said city, on such terms as may be agreed upon, to construct and maintain water works for the purpose of supplying water to such city and the citizens thereof, for all public and private purposes; *provided*, that no such contract shall be entered into unless the same shall have been authorized by an affirmative vote of not less than four-fifths of the common council.

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Contract to be signed by mayor, &c.

476. SEC. 94. That any contract made under the provisions of the last preceding section, shall have the signatures of the mayor and the president of the common council, and be attested by the city clerk; and the individual, firm or company, parties to such contract, shall give bonds for the faithful performance of all stipulations agreed to, in such an amount and with such securities as the common council may direct.

Contract shall provide for the laying of water pipes, &c.

477. SEC. 95. That such contract shall provide that such individual, firm or corporation may lay water pipes under the surface of any of the streets of said city, subject to such regulations as the council may prescribe; and it shall be lawful for such individual, firm or corporation to lay water pipes under the surface of any highway within ten miles of the boundary of said city; *provided*, that such highway is not within the limits of any other city; *and provided further*, that such individual, corporation or firm shall repair and make good all injury or damage by him, them or it, done to the roadbed of such highway, or to any bridge or other structure thereon.

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Penalty for damages to water works, &c.

478. SEC. 96. That if any person shall willfully, unlawfully and maliciously in any manner pollute, or render foul or impure any stream, lake, reservoir, or other source of supply of water for any such city, or shall cut, tear or break down, destroy or damage any conduit, aqueduct or artificial water-course, made or used for the purpose of conveying water to supply such city, or any building, works, engine or other machinery for the purpose of raising or conveying water to such city, belonging to any company or person, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment at hard labor not exceeding one year, or both.

Limitation of term of contract for operating works.

479. SEC. 97. That the right to build, maintain and operate such water works under contract with any city as aforesaid, shall not be granted by such city for a term exceeding thirty years, at the expiration of which term it shall be optional with such city to renew the contract for any term not exceeding thirty years, on such terms as may be mutually agreed upon; or in case such city and such individual, firm or corporation shall be unable to agree upon the terms of such renewal, then said city may purchase the works and all appertaining thereto at their full valuation, to be determined by the parties interested; and in the event of their not agreeing upon such valuation, then the same shall be made by three disinterested persons, one of whom is to be chosen by each of said parties, and the third to be selected by the two so chosen.

Collection of water rents.

480. SEC. 98. That the common council of said city may authorize such individual, firm or corporation constructing water works under contract, as herein provided, to charge and collect from each and every person supplied by them with water, such water rents as may be agreed upon by the city and such individual, firm or corporation; and said city may contract with such individual, firm or corporation for a supply of water for the extinguishing of fires and for any other purpose necessary to the health, safety and comfort of persons and property within said city.

May pass ordinances for laying sewers and drains, &c.

481. SEC. 99. That the common council of said city shall have the power to pass ordinances for laying sewers and drains in said city, and beyond the limits of the same to an outlet or place of deposit at the mouth of such sewer, and for taking and appropriating the lands necessary for such purpose, making just compensation to the owners thereof, and to provide for the payment of the costs and expenses of the same, and for assessing such costs and expenses upon the persons and parties benefited thereby, according to law, and shall also have the power to acquire, by purchase or otherwise, the necessary land in some convenient place, either within or without the limits of said city, for the depositing or reception of the contents of such sewers or drains, and to provide a plan or system of works and machinery for the purpose of utilizing such contents or flow of such sewers or drains, and to deodorize the same so as to render it inoffensive so far as possible, and to provide for the sale of such deposit or the

product of said works, by contract or otherwise, as may be thought best for the interest of said city.

Commissioners of sewerage to be appointed.

482. SEC. 100. That the common council shall have power to appoint three disinterested commissioners, who shall, for and in the name of the city, take and hold any lands or other real estate necessary for the construction of the sewage works provided for in this act, or to secure and maintain any portion of the works, and, in general, to do any other act necessary or convenient to be done respecting the same.

Proceedings in case of disagreement between the commissioners and owners.

483. SEC. 101. That in case of any disagreement between the commissioners and the owners of any lands or rights which may be required for the said purposes or affected by any operation connected therewith, as to the amount of compensation to be paid to such owner, or, in case any such owner shall be an infant, or a married woman, or unknown, or insane, or shall be absent from the state, the circuit court in and for the county shall, on the application of either party, nominate and appoint three disinterested persons to examine such property, and estimate the value thereof or damage sustained or to be sustained thereby, who shall, after reasonable notice to the parties of the time and place where they will be heard in relation to the matter, proceed, without delay, to estimate such value or damage and report thereon to the court.

Payment to owner to be made on confirmation of report.

484. SEC. 102. That whenever such report shall be confirmed by the court aforesaid, the common council shall, within two months thereafter, cause to be paid to the said owner, or to such person or persons as the court may direct, the sum mentioned in said report, in full compensation for the property so required, or for the damage sustained, as the case may be; and thereupon the said city shall become seized in fee of such property so required, and shall be discharged from all claims by reason of such damage, but no claim shall be made or allowed after the expiration of three years from the time the land is taken or the damage suffered.

Commissioners authorized to use ground or soil under streets, &c.

485. SEC. 103. That the commissioners, in behalf of the mayor and common council of said city, and all persons acting under their authority, shall have the right to use the ground or soil under any road, railroad, highway, street, lane or alley within ten miles of the boundary line of said city, for the purpose of constructing the works contemplated by section ninety-eight of this act, on condition that they shall cause the surface of such road, railroad, highway, street, lane or alley to be restored to its original state, and all damages done thereto to be repaired.

2. CITIES HAVING NOT MORE THAN 5,000 INHABITANTS.

An act concerning certain cities in this state.

Approved March 29, 1878. P. L. 1878, p. 203.

When votes to be counted and canvassed in cities having not over 5,000 inhabitants.

486. SEC. 1. That immediately after the polls shall be closed at municipal elections, the election officers in the several wards or election districts shall count the votes given for the several candidates, and certify, under their hands, the number given for each, and publicly announce the same; and within three days thereafter they shall deliver one such certified statement to the city clerk, and another to the county clerk, to be by them filed in their respective offices; at eight o'clock of the Thursday evening next succeeding such election, the city clerk and those aldermen who have not been candidates for any office at such election shall convene at their usual place of meeting and proceed to canvass the votes given at such election, and the persons having the highest number of votes shall be declared elected, and a statement of the result shall be recorded in a book kept for that purpose in the city clerk's office, and a copy shall be filed in the county clerk's office, which statement and copy shall be certified by the officer presiding at such meeting, and by the city clerk; and within two days after such canvass the city clerk shall give to each person elected to any city or ward office a certificate thereof under the seal of the city. [See Sec. 500, *post.*]

When the vote shall be canvassed.

City clerk to record statement of the result.

Certificate of election.

Appointment of assessors and collectors of taxes.

487. SEC. 2. That the assessors of taxes in the several wards and the city collector of taxes, in the cities to which this act relates, shall be appointed annually in the manner that other officers are appointed in such cities, and shall not be elected at the annual municipal election as heretofore.

Concurrence of a majority necessary to the passage of an ordinance.

Votes necessary to passage when expenditure of money is involved.

488. SEC. 3. That no ordinance shall be passed by the board of aldermen of any city, unless it be introduced at a previous stated meeting and be concurred in by a majority of all the members of the board; and in case any ordinance involves the expenditure of money, the votes of three-fourths of all the members of said board shall be necessary to its passage, and no money shall be expended for any celebration, procession or entertainment of any kind, unless by the votes of four-fifths of all the members of said board; no additional allowance beyond the legal claim which exists under any contract with the corporation, or for any services on its account or in its employment, shall ever be passed by the board of aldermen except by a unanimous vote thereof; every ordinance involving the expenditure of money or affecting personal liberty shall, before its final passage, be published at least one week in a newspaper printed and published or circulating in such city.

Ordinance to be published before final passage.

Treasurer to make quarterly statements of moneys received and paid.

489. SEC. 4. That the city treasurer shall make a quarterly statement of all moneys received and paid out during the quarter, showing the source from whence received, to what purpose applied, and to whom paid, the amount of indebtedness and the balance of funds in his hands; also a statement showing, in tabular form, the annual appropriations, the expenditures to date under each account, and the unexpended balances; said statements shall be filed in the office of the city clerk; the board of aldermen shall publish in pamphlet form, annually, a detailed statement of the receipts and disbursements by the city treasurer.

Annual salaries of officers.

490. SEC. 5. That the annual salaries of the officers named below shall be fixed by ordinance by the board of aldermen before the appointment of such officers, but shall not exceed the sums set opposite to their respective names, to wit: the city clerk, five hundred dollars; the collector, five hundred dollars, in lieu of all fees, and all fees collected by him shall be paid into the city treasury; the city treasurer, two hundred and fifty dollars; the superintendent of streets, three hundred dollars; the city counsel, one hundred dollars, for opinions upon all questions submitted to him by the board of aldermen, and for advice given to the officers of the city when applied to by them for that purpose, and such further compensation as shall be reasonable for drawing contracts, attending and conducting suits, actions and proceedings at law, and performing any other services that may be required of him, and that the total sum paid in any one year shall not exceed the sum of seven hundred and fifty dollars; each assessor, not exceeding ten cents per name on his duplicate and two dollars per day for every day necessarily employed in meeting with the county board of assessors and the court of appeals, and twenty-five dollars for making and filing his duplicate, as provided by law, in the year eighteen hundred and seventy-nine, and annually thereafter; the board of aldermen may increase the salary or compensation of any or all of the above-named officers by not more than ten per centum over and above the salary fixed for the preceding year.

Limitation of indebtedness of city.

491. SEC. 6. That the aggregate indebtedness of any city shall at no time exceed five per centum of the assessed valuation of the city, and the bonded indebtedness thereof shall not be increased beyond the amount thereof at the time of the passage of this act; the mayor shall sign no bond, note or other obligation in excess of the limit hereby fixed, nor shall the city be bound to pay any indebtedness incurred by the board of aldermen in excess of such limitation; all collections of assessments for opening or improving streets shall be reserved for and applied exclusively to the payment of any indebtedness incurred on account of such opening or improvement, and all collections of arrears of taxes shall be reserved for and applied exclusively to the payment of any indebtedness, temporary or otherwise, incurred in anticipation of the payment of such taxes.

Collections of assessments, how applied.

Moneys of the sinking fund, how invested.

492. SEC. 7. That the moneys of the sinking fund of any city shall be invested only in the bonds of such city, or in the bonds of the United States, or of the state of New Jersey, or of any of the cities or counties of this state.

General powers of board of aldermen.

493. SEC. 8. That the board of aldermen of any city shall have power, by ordinance, to lay out, open and grade any street, road, highway or alley, or any section thereof, or any public park or square within said city; to order and cause any street, road, highway or alley already laid out, or which shall hereafter be laid out, or any section thereof, to be vacated, straightened, altered, widened or extended; and to take and appropriate for such purposes any lands and real estate, upon making compensation to the owner or owners thereof, as hereinafter mentioned, provided application in writing, signed by the owners of a majority of the lineal feet of land fronting on the proposed improvement, be first presented to said board of aldermen, accompanied by a deposit of one hundred dollars, to pay the preliminary expenses, such as advertising, surveying and commissioners' fees, the unexpended portion of such deposit to be returned to the petitioners if the work petitioned for is not executed; the said application shall also be accompanied by a bond, with good freehold security, being the petitioners or others, approved by the board of aldermen, conditioned for the payment to the city treasurer of such proportion of the estimated cost of such work, and at such time or times as the said board may, by ordinance, prescribe.

Excess of costs over benefits in improvements, how raised.

494. SEC. 9. That in cases where the costs, damages and expenses of street improvements exceed the benefits, the excess shall be paid out of the city treasury, and the amount of such excess shall be incorporated in the tax levy of the next ensuing fiscal year.

Members of board of aldermen or board of education not to hold salaried office or to be interested in contracts.

495. SEC. 10. That no member of any board of aldermen or of any board of education shall, during the period for which he was elected, be appointed to or competent to hold any office, the salary or emoluments of which are paid from the city treasury; nor shall any member of any board of aldermen, or of any board of education, or any other city officer, be directly or indirectly interested in any contract, work or business, or in the sale or supply of any article, the expense, price or consideration of which is paid from the city treasury or by an assessment levied by an act or ordinance of said board; nor shall any such member or officer be directly or indirectly interested in the purchase or sale of any real estate or other property from or to the city, and the city treasurer shall pay no claim therefor presented for or on account of any such member or officer; nor shall any such member or officer become security for any officer of the city or for any contractor with the city; any member or officer violating the provisions of this section shall forfeit his office, and, in addition to any other penalty fixed by law, he shall be liable to a penalty of five hundred dollars for each offense, to be recoverable by suit in the name of the city, one-half of such penalty, if recovered, to go to the person bringing the suit and one-half to the city, or the whole penalty to go to the city if the suit is brought by order of the board of aldermen.

Not to become security.

Penalty.

Limitation of money raised for current expenses of public schools.

Proviso.

496. SEC. 11. That the amount of money raised in any one year by tax in any city by order of the board of aldermen, for the current expenses of public schools, shall not be greater than the entire amount received from the state for school purposes during the preceding fiscal year; *provided*, that a special additional appropriation may be made at any time by a three-fourths vote of all the members of the board of aldermen.

Examination of books and accounts of officers.

497. SEC. 12. That the board of aldermen of any city shall, from time to time, examine the books and accounts of the city treasurer, the collector and any other officers of the city who may have the custody of any moneys of the city.

Payment of claims to persons in arrears for taxes.

498. SEC. 13. That no person or corporation in arrears to any city for taxes, or otherwise indebted to any city (except for assessments), shall be paid any money from the city treasury for any purpose except for the interest and principal of bonds of such city, until such taxes or other

indebtedness shall have been paid in full; and, before paying any warrant, the city treasurer may require the person, or the agent of the corporation in whose favor such warrant is drawn, to subscribe to an oath or affirmation, which the city treasurer is hereby authorized to administer, that he, the payee, or the corporation which he represents, is not in arrears for taxes nor otherwise indebted (except for assessments) to said city; but no person or corporation shall be deemed to be in arrears for taxes unless his or its taxes shall remain unpaid, in whole or in part, on and after the twentieth day of December in the year in which such taxes were assessed, and the collection of the same shall not have been stayed by certiorari.

When to be deemed in arrears for taxes.

Certain words, how construed.

499. SEC. 14. That the words "board of aldermen," in this act, shall be construed to mean the "common council," "city council" or any other name by which the legislative body of any city shall be known.

Act not to apply to certain cities.

500. SEC. 15. That this act shall take effect immediately; but it shall not apply to any city which contained more than five thousand inhabitants, by the census of eighteen hundred and seventy-five; nor shall it apply to any city until the legislative body thereof shall have passed a resolution, and a duly-attested copy of the same shall be filed in the office of the secretary of state, adopting the provisions of this act for the government of such city; and when so adopted, any and all provisions of the charter of any such city, or of the supplements thereto, inconsistent herewith, shall thereby be repealed.

VII. Cities generally.

1. OFFICERS, THEIR APPOINTMENT, TERMS, SALARIES, ETC.

An act concerning commissioners to regulate municipal affairs.

P. L. 1877, p. 54.

Approved March 6, 1877.

Commissions to regulate municipal affairs appointed by legislature abolished.

501. SEC. 1. That such parts of all public, special and local laws as provide for the appointment of commissions or commissioners, by the senate and general assembly of the legislature in joint meeting, to regulate municipal affairs in any city in this state, be and the same are hereby repealed; and the terms of office of all such commissions and commissioners shall cease and determine on the second Monday after the election of the members of the boards substituted in lieu of said commissions and commissioners by the second section of this act.

Mode of choosing boards in lieu of such commissions.

502. SEC. 2. That in all cases where the above repealing section shall operate in any city in this state, there shall be substituted in lieu of each of the existing boards of said commissions or commissioners, to exercise all the powers heretofore conferred upon such commissions or commissioners, a board to consist of six persons, namely, one shall be chosen by the electors in each aldermanic district in said city, who shall be a qualified voter of said city; and the result of such election shall be canvassed in the manner now provided by law for the election of such other officers of such city as are now elected by ballot at the charter election in such city; that the several boards, substituted in lieu of the said commissions and commissioners, shall be elected by the people at the charter election holden next after the passage of this act in any city, and shall hold their office as follows: three of each board for one year, and three for two years, and at each charter election thereafter there shall be elected for two years three members of each of said boards in place of those whose term has expired; and each member of said boards shall receive an annual salary of five hundred dollars per annum; and at the first meeting of said boards in the year one thousand eight hundred and seventy-seven, they shall determine by lot which of said members of said boards shall hold office for one year, which for two years, and such determination shall be filed in the office of the city clerk of said city; each of said boards shall have power to elect a president and clerk; and all vacancies happening in said boards shall be filled by the mayor of the city by and with the advice and consent of the

Term of office.

Salary.

Vacancies.

body elected by the people exercising powers of municipal legislation in said city; *provided always*, the said vacancies shall not be filled for any term longer than the unexpired term of such office. (*a*) Proviso.

An act for the regulation of salaries of city treasurers.

Approved March 9, 1877. P. L. 1877, p. 159.

503. SEC. 1. That in any case where by the act of incorporation of any city, or any supplement thereto, the salary or compensation of the city treasurer shall be fixed at the sum of five hundred dollars, it shall be lawful for the mayor and council or board of aldermen to fix by resolution the salary or compensation of said treasurer; *provided*, the same shall not exceed the sum of two thousand five hundred dollars; *and provided further*, that the salary or compensation of such city treasurer, which has been so fixed as aforesaid, shall not be increased during the continuance of the term of office of such treasurer. Salary of city treasurer. Proviso. Proviso.

An act relating to the giving of official bonds by certain city officials.

Approved March 9, 1877. P. L. 1877, p. 164.

504. SEC. 1. That no member of any board of works, police board or fire board, in any city in this state where the members of such board are elected by the people of said city or any district therein, shall become a member of any such board unless he shall first give a bond with good and sufficient sureties in the sum of fifteen thousand dollars, conditioned for the faithful performance of the duties of his office, the said bond to be approved and accepted by the board of finance and taxation of said city, or in the absence of such board, the finance department of said city; and on failure for thirty days to give such bond, there shall be deemed to be a vacancy in such board as to said member so failing to give such bond. Member of board of works, &c., when elected by the people to give bond.

An act to authorize the municipal authorities of the cities in the state of New Jersey to fix and regulate the salaries of their officers.

Approved March 9, 1877. P. L. 1877, p. 225.

505. SEC. 1. That it shall be lawful for the board of aldermen or common council of any incorporated city of this state to fix, by ordinance, the annual salary of each person elected by the people or appointed by such board of aldermen or common council to any office in any such city, and the time and the manner of the payment thereof; *provided*, that the salary of the members of such board of aldermen or common council shall not be increased beyond the amount now fixed by law for said boards respectively; *and provided further*, that nothing in this act shall be construed to authorize the payment of a salary to any city officer not now entitled by law to receive a salary, but the salary of no city officer shall be altered during the term for which he has been or may be appointed; (*b*) *provided*, that no salaries of officers or clerks in the finance department of any city wherein there are now commissioners of the sinking fund established by law, whether such salaries are fixed by statute or otherwise, shall be changed without the consent of a majority of such commissioners. Salaries of officers may be fixed by ordinance in cities having not over 50,000 inhabitants. Proviso. Proviso.

506. SEC. 2. That no salary, when so fixed by ordinance, shall be changed during the fiscal year for which it shall have been fixed, but said board of aldermen or common council may, at the commencement of any fiscal year, by ordinance, change any such salary as in the judgment of said board of aldermen or common council the welfare of the said city may require. Salary not to be changed during the fiscal year.

(*a*) The constitutional amendment that prohibits the enactment of special and local laws in certain cases applies to laws regulating the internal affairs of cities, as well as those of counties. *Van Riper* v. *Parsons*, 11 *Vr.* 1. *Query*—Is this act unconstitutional as being a special act? *Van Riper* v. *Parsons*, 11 *Vr.* 126. See *Van Reypen* v. *Jersey City*, 19 *Vr.* 428.

(*b*) This proviso does not specialize the act. *Lawrence* v. *Elizabeth*, 16 *N. J. L. J.* 313.

Act applies only to certain cities.

507. SEC. 3. That this act shall take effect immediately, but this act shall not apply to cities having over fifty thousand inhabitants, nor shall this act be construed to apply to the salaries of teachers in any of the public schools of this state.

An act to repeal all acts appointing or providing for the appointment of commissions or commissioners, by the senate and general assembly in joint meeting, to regulate municipal affairs and ending the term of office of any such commissions or commissioners.

P. L. 1878, p. 28.

Approved February 26, 1878.

Acts providing for appointment of municipal commissions by legislature, repealed.

508. SEC. 1. That such parts of all public, general, private, special or local laws as appoint or provide for the appointment of commissions or commissioners, or their successors in office, by the senate and general assembly of the legislature in joint meeting, to regulate all or any municipal affairs in any municipality in this state, be and the same are hereby repealed.

Term of office forthwith to end.

509. SEC. 2. That the term of office of all commissions and commissioners, heretofore appointed by the senate and general assembly of the legislature in joint meeting, to regulate all or any municipal affairs in any municipality in this state, (if any now exist, and any term of office of such is not already ended and determined,) shall forthwith end and determine. (*a*)

A further act concerning cities. (*b*)

P. L. 1878, p. 42.

Approved March 4, 1878.

Election of councilmen in certain cities of less than 10,000 inhabitants.

510. SEC. 1. That the common council of any city of less than ten thousand inhabitants, and divided into not less than two or more than three wards, which may now by law consist of twelve members, shall hereafter consist of thirteen members, who shall be elected, an equal number from each ward and one member-at-large from such city, at the next annual city election therein held after the passage of this act; the member-at-large shall be an elector and resident of such city and shall hold his office for the term of two years, and at the expiration thereof and every two years thereafter a member-at-large shall be so elected; the members so elected from each ward shall be electors and residents of their respective wards, and shall at the first meeting of said common council after their election, divide themselves into two classes, by lot, the first class to hold their offices for the term of one year, and the second class to hold their offices for the term of two years, so that three members of common council from each ward, or two members from each ward, in case there may be two wards or three wards, shall be chosen at each and every annual city election thereafter.

Term of office.

Vacancies to be filled by special election.

511. SEC. 2. That in case of any vacancy in said common council, caused by the death or resignation, inability, disqualification, neglect or refusal to act, or removal out of the city or ward, if elected from such ward, of any member of common council, it shall be the duty of the common council, at their first meeting thereafter, to declare such vacancy, and then and there immediately to appoint a day upon which an election shall be held to fill such vacancy for the unexpired term of the member whose office shall so have been declared vacant; the same notice of such election shall be given, and the same shall be conducted by the officers, in the manner and at the places prescribed by law of and for holding and conducting the annual city elections in such city or ward, as the case may be; *provided*, that if any such vacancy may occur within six months previous to the then next

Notice of election to be given.

Proviso.

(*a*) This act is framed in general terms, is restricted to no locality, and operates equally upon all of a group of objects which, having regard to the purposes of the legislation, are distinguished by characteristics sufficiently marked and important to make them a class by themselves; it is therefore not a special or local law but a general law. *Van Riper* v. *Parsons*, 11 *Vr.* 123. Neither does the act infringe that clause of the constitution which declares that "no law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length." The constitution does not cover repealing acts, and was designed to apply only to such enactments as are, in terms, revivals or amendments of specified statutes and sections. *Ib.* See *Van Reypen* v. *Jersey City*, 19 *Vr.* 428.

(*b*) This is a special law regulating the internal affairs of cities, and unconstitutional. *Randolph* v. *Wood*, 20 *Vr.* 85.

annual city election, such vacancy shall be filled at such annual city election.

Time of opening and closing polls.

512. SEC. 3. That at all annual and special elections held as aforesaid in any such city, the polls shall open at seven o'clock in the morning and shall close at seven o'clock in the evening.

Repealer.

513. SEC. 4. That all acts or parts of acts, and all and any provisions contained in the charter, or the supplements thereto, of any such city, inconsistent with the provisions of this act, be and the same are hereby repealed.

An act relating to cities in this state where there are commissioners of streets and sewers, and also a city officer styled a street commissioner.

Approved March 19, 1878. P. L. 1878, p. 146.

Office of "street commissioner" abolished in certain cities of over 15,000 inhabitants.

514. SEC. 1. That in all incorporated cities of this state having a population, by the last census, of over fifteen thousand inhabitants, and wherein there exist, by legislative appointment or otherwise, commissioners denominated "commissioners of streets and sewers," and wherein, under the charters of such cities, respectively, there also exists a city officer denominated a "street commissioner," the said office of street commissioner in each and every of such cities is hereby abolished; and the said commissioners of streets and sewers in any of said cities shall hereafter have and exercise all the rights and powers and perform all the duties which, by the charters of such cities or the several supplements thereto, and the ordinances of such cities, are conferred upon and required of the said officer styled street commissioner of such cities respectively; and that said commissioners of streets and sewers, in the exercise of such rights and powers, and in the performance of the duties of such office of street commissioner of any such cities, shall, at all times, be subject to the ordinances of said cities and the direction of the common council thereof, but said commissioners of streets and sewers shall not, in any event, be entitled to or receive any compensation whatever for their performance of the duties and services of said office of street commissioner, as required of them by this act.

Repealer.

515. SEC. 2. That all public, local and special acts, and all parts of such acts inconsistent with the provisions of this act, be and the same are hereby repealed.

An act concerning certain cities in this state.

Approved March 20, 1878. P. L. 1878, p. 163.

Election of councilman-at-large in certain cities of over 20,000 inhabitants.

516. SEC. 1. That in any city of this state, having a population of over twenty thousand inhabitants, and being subdivided into four wards, there shall be elected at the next charter election to be held therein one councilman-at-large, who shall be the presiding officer or chairman of the board of councilmen of such city, and who shall hold his office for the term of one year, and who shall perform all the duties now devolving upon or performed by the chairman of the board of councilmen of any such city.

Councilmen to give bonds.

517. SEC. 2. That hereafter the councilmen to be elected to any such city shall receive no salary, and shall, before entering upon the duties of their respective offices, execute a bond to the mayor and council of any such city in the sum of five thousand dollars, conditioned for the faithful performance of their duties, which said bond shall be approved of by the court of common pleas of the county, and shall be filed in the office of the city clerk of any such city.

Mayor not to receive salary.

518. SEC. 3. That hereafter the mayor of any such city, and whose salary is now fixed by any special law of this state at the sum of one thousand dollars per annum, shall receive no salary for his services.

Salaries of collector, assessor and city clerk.

519. SEC. 4. That the salary of the collector of revenue of any such city shall hereafter be two thousand dollars, and he shall be entitled to such percentage for the collection of arrears of personal taxes as are now allowed

by law; and that the city assessor of any such city shall have an annual salary of two thousand dollars; that the city clerk of any such city shall hereafter receive a salary at and after the rate of two thousand dollars, to be in lieu of all fees of every kind whatever, and all the fees and emoluments to which the city clerk of any such city is entitled, or which may be collected by him under existing special acts of this state, or by the charter of such city or any supplement thereto, shall continue to be collected by him and paid over once in each week to the city treasurer of any such city, who shall report the receipt of the same to the council of such city as often as convenient.

License fees, &c., to be paid into sinking fund.

520. SEC. 5. That all moneys hereafter paid to and received by any such city for licenses, market rents and from all sources other than taxes, assessments and water rents or the arrears thereof, as well as all fees of every kind received by any city officer, shall be paid into the sinking fund of such city and devoted to the purposes thereof.

Repealer.

521. SEC. 6. That all acts or parts of acts, special, public or private, inconsistent with the provisions of this act, be and they are hereby repealed, and this act shall take effect immediately.

An act relating to "commissioners of streets and sewers" in the cities of this state.

P. L. 1878, p. 231.

Approved March 29, 1878.

Limitation of expenses of "commissioners of streets and sewers" in cities having less than 20,000 inhabitants.

522. SEC. 1. That in all cities of this state having less than twenty thousand inhabitants, wherein there are "commissioners of streets and sewers" appointed or elected, it shall not hereafter be lawful for the entire expenses of the said commissioners of streets and sewers, including pay of assistants employed and office expenses in any such city, over and above the salaries of such commissioners of streets and sewers as now fixed by law, to exceed the yearly sum of three thousand dollars.

Repealer.

523. SEC. 2. That all public, local and special acts, and all parts of such acts inconsistent with the provisions of this act, be and the same are hereby repealed.

A further act concerning cities.

P. L. 1878, p. 309.

Approved April 5, 1878.

Election of aldermen in certain cities of 4,500 to 7,000 inhabitants.

524. SEC. 1. That the common council of any city of less than seven thousand inhabitants and more than forty-five hundred and divided into three wards, which may now by law consist of nine members elected annually, elected three from each ward, shall hereafter consist of nine members, elected three from each ward in manner as follows; and at the next annual city election therein held after the passage of this act, there shall be elected three aldermen in each ward to constitute such common council; the members so elected from each ward shall be electors, freeholders and residents of their respective wards, and shall at the first meeting of said common council after their election divide themselves into three classes by lot, the first class to hold their offices for the term of one year, the second class to hold their offices for the term of two years, and the third class to hold their offices for the term of three years; and at each and every annual [election] thereafter there shall be elected in each ward one alderman for the term of three years; *provided, however*, that no such alderman shall be entitled to any compensation for his services.

Term of office.

Proviso.

Time of opening and closing polls.

525. SEC. 2. That at all annual and special elections held in any such city, the polls shall open at seven o'clock in the morning and shall close at seven o'clock in the evening.

Repealer.

526. SEC. 3. That all acts or parts of acts, and all and any provisions contained in the charter or the supplements thereto of any such city, inconsistent with the provisions of this act, be and the same are hereby repealed.

An act respecting the salaries of city officers in cities of this state.

Approved April 5, 1878. P. L. 1878, p. 327.

527. SEC. 1. That hereafter it shall not be lawful for the members of the board of aldermen or city council, or legislative body of any incorporated city of this state, which, according to the last census, had more than twenty thousand and less than thirty-five thousand inhabitants, to be paid or receive any salary, compensation or allowance of any sort for their services as such city officers. In cities having 20,000 to 35,000 inhabitants, aldermen not to have salaries.

528. SEC. 2. That this act shall take effect immediately, but shall not affect the salaries or right to salary of any of the said officers now in office in any of said cities until their present term of office shall expire. Act not to affect present incumbents.

An act concerning cities.

Approved March 14, 1879. P. L. 1879, p. 180.

529. SEC. 1. That it shall be lawful for the board of aldermen or common council or city council of any incorporated city of this state to determine and fix the amount of salary and compensation which shall be paid to the comptroller of any city; *provided*, that this act shall apply only to cities having, by the census of one thousand eight hundred and seventy-five, a population exceeding fifty thousand, and less than one hundred thousand inhabitants, in which the salary of the comptroller shall not exceed the sum of three thousand dollars per annum, and to cities having, by the same census, a population exceeding twenty-five thousand and less than fifty thousand inhabitants, in which the salary of the comptroller shall not exceed the sum of two thousand five hundred dollars per annum, and to cities of less than twenty-five thousand inhabitants, in which the salary shall not exceed the sum of two thousand dollars per annum; *provided, however*, that nothing in this act shall be construed or held to permit any increase in the salary of comptroller in any city of this state beyond that paid for the year eighteen hundred and seventy-eight. Salary of comptroller in certain cities having 100,000 inhabitants and less. Proviso.

530. SEC. 2. That it shall be the duty of the comptroller to give the board of aldermen or common council or city council a statement in detail of the financial condition of said cities at least once in each year, and oftener if required by said board of aldermen or common council or city council, or on written application of one-fourth the members thereof. Comptroller to make annual statement.

531. SEC. 3. That this act shall take effect immediately, and all acts and parts of acts repugnant to the provisions of this act be and the same are hereby repealed. Repealer.

An act concerning cities.

Approved February 5, 1880. P. L. 1880, p. 11.

532. SEC. 1. That if any vacancy shall occur in the board of aldermen or common council of any incorporated city of this state by the death, resignation or disqualification of any incumbent, said vacancy shall be filled by the mayor of such city by the appointment of a suitable and discreet citizen of such city, who shall continue in said office until the next regular election. (*a*) Vacancies in office of aldermen or common council, how filled.

533. SEC. 2. That the provisions of this act shall not apply to any incorporated city in which the filling of vacancies in the board of aldermen or common council is already regulated by its charter. Act not to apply to cities where filling of vacancies is regulated by charter.

An act to authorize and regulate the appointment and employment of officers, agents and employes by municipal boards in cities.

Approved February 25, 1880. P. L. 1880, p. 48.

534. SEC. 1. That hereafter the several municipal boards in the cities in this state, by whatever name or designation said boards, or any of them are known in law, are hereby severally authorized and empowered to Municipal board may employ officers, &c., without concurrence of any other board.

(*a*) See *Mueller* v. *Egg Harbor City*, 26 *Vr.* 245.

appoint and employ their officers, agents and employes, respectively provided for by law, without the concurrence of any other municipal board, and such concurrence therein shall not be required.

Concurrent action of different boards not required.

570-535
32V-465

535. SEC. 2. That it shall hereafter be lawful for each municipal board, board of public works, or other city board in the several cities of this state to appoint and employ its appropriate officers and agents without the concurrence of any board of finance or other municipal board in such city; and the right of any one municipal board to concur in the appointment and employment, or in the salary or compensation of the officers and agents of any other municipal board, is hereby abolished, and such concurrent action shall not be required.

Repealer.

536. SEC. 3. That this act shall take effect immediately, and that all acts and parts of acts, public, general, private, special or local, contrary to or inconsistent herewith, are hereby repealed.

An act to enable cities to create the office of comptroller.

P. L. 1880, p. 142.

Approved March 10, 1880.

Incorporated cities may create the office of comptroller.

537. SEC. 1. That it shall and may be lawful for any incorporated city in this state, wherein the office of comptroller does not now exist, to create and establish the office of comptroller for such city, whenever the city council thereof shall by the passage of an ordinance determine so to do, which ordinance shall define the duties of said officer in conformity with this act, and shall fix his salary, not exceeding in amount fifty dollars for each thousand of population of said city, and the amount of bond which shall be required from him.

Salary.

Comptroller's election and term of office.

538. SEC. 2. That said comptroller shall be selected, in each city adopting said ordinance and establishing such office, by the city council of said city at the first stated meeting after the passage of the ordinance mentioned in the preceding section, and the person so elected shall hold his office for the term of three years and until his successor is elected and qualified.

Comptroller to take oath and give bond.

539. SEC. 3. That said comptroller before entering upon the duties of his office shall take and subscribe before any officer authorized to administer oaths and affirmations in this state, an oath or affirmation faithfully to execute the duties of his office to the best of his knowledge, skill and ability, and such other oath or affirmation as the laws of the state of New Jersey or the council electing said officer may require, which oath or affirmation shall be filed by the city clerk in his office; he shall give good and sufficient bond for the faithful performance of the duties of his office in such sum as the city council electing him shall direct, and shall receive as compensation for his services such salary as said city council shall prescribe, said salary not to be increased or diminished during the term of his office.

Duties and powers of comptroller.

570-540
34V-199

540. SEC. 4. That it shall be the duty of the said comptroller to sign all warrants on the city treasurer; to superintend all fiscal concerns of the city in such manner and to report thereon at such times as city council shall direct by ordinance; to keep separate accounts of all appropriations made by city council to each and every department of the city government, and to require all warrants on the treasurer to state particularly against which appropriation the said warrant is drawn; the said comptroller, upon receiving a bill or warrant, shall examine the same, and if it be for any purpose for which there is no appropriation, or the appropriation for which is exhausted, or to which for any other cause he cannot give his approval, he shall report the fact to the department having charge of the bill or claim against the city, and the warrant in such case shall not be signed except by special authority or direction of city council; he shall, upon the death, resignation, removal or expiration of the term of office of any officer or person who by law may be authorized to receive or disburse moneys of the city, for which said comptroller is acting as aforesaid, audit and examine the accounts of such officer or person, and report the condition of his business to city council; he shall, before the payment of any claim against the city, first audit the bill containing or making up said claim, with a view to ascertain whether the supplies charged to the city, or ser-

vices alleged to have been rendered, have been furnished and rendered as stated, and whether the sum or sums demanded therefor are proper, and after so auditing shall return said bill to the department having control of the appropriation against which said claim is made, and against which the warrant is to be drawn; he shall, as often as he may deem necessary, or as city council shall require, suggest plans to said city council for the improvement, advantage and better management of the city finances; he shall have control of the fiscal concerns of all departments, bureaus and officers of the city in which he holds his office as aforesaid, and may require at any time from any or all of said departments, bureaus and officers a full exhibit of their business, and a statement of account in writing of any and all moneys or property of the said city within the control or in the hands of said departments, bureaus and officers; and said comptroller shall immediately, in case of any default, delinquency or official misconduct, report the same to city council, and in order that he may fulfill his duties and make complete audits of accounts, he shall have power, whenever he may see fit, to examine all books, papers and vouchers pertaining to any and all departments of the city's business, and shall have free and unrestrained access to them for the purpose aforesaid; the said comptroller shall also be authorized, whenever in his judgment the interest of the city for which he is elected such officer shall require, to examine under oath any person presenting a bill or claim against said city for the payment of moneys, and also to examine witnesses and to investigate by other evidence and inquiry all the facts relating to said claim, which, in his opinion, are necessary to establish the accuracy and good faith of said claim, and to ascertain the city's liability therefor; *provided, however*, that this act shall not apply in any of its provisions to any city of this state which now has any comptroller under any special charter or the supplements thereto, or any officer whose duties correspond to those enumerated in this act.

Proviso.

541. SEC. 5. That it shall be a misdemeanor for the comptroller to sign any warrant or order, or otherwise to procure the payment of any money by the city for which he is said officer, not authorized by law.

Unlawfully signing warrants a misdemeanor.

An act relating to officers in cities who now hold or hereafter shall hold their offices for a fixed period.

Approved February 28, 1881. P. L. 1881, p. 47.

542. SEC. 1. That any officer of any city in this state who now holds or hereafter shall hold any office therein, under any law of this state which fixes the term thereof for a precise and a determined period, shall continue to hold such office and exercise the duties of the same, notwithstanding the time limited for its continuance shall have expired, until his successor has been appointed and qualified. (*a*) [See Sec. 616, *post.*]

Terms of all city officers extended until appointment of successors.

571-542
35V-227

571-542
39v-228

An act concerning cities in this state.

Approved February 21, 1882. P. L. 1882, p. 18.

543. SEC. 1. That in any city of this state where a corporation counsel or attorney shall now or hereafter may be appointed by any city board other than the common council or board of aldermen, that in every such case hereafter, the city board having the control of the finances of such city shall have the power of appointment of a corporation counsel or corporation attorney, or either of them, and power to fix the salary of such counsel or attorney of said city at a less amount than shall have been fixed by any existing law of this state now affecting such city; and such board shall have power, in all cases where a definite term of years for said offices is not now fixed by law, to make such appointment of such counsel or attorney for a definite term, not exceeding two years, at a salary less than

Power of board of finance to appoint corporation counsel and attorney, and to fix salary, &c.

(*a*) The charter of Jersey City provided that three police justices should be appointed by the senate and general assembly in joint meeting, and that in case of a vacancy the governor should fill it. *Held*, that upon the expiration of the official term of one of the police justices, there was by reason of the above act no vacancy, and that the governor could not fill the office. *Stilsing* v. *Davis*, 16 *Vr.* 390. See *Clarke* v. *Trenton*, 20 *Vr.* 349. *Brown* v. *Rahway*, 24 *Vr.* 160.

Proviso.

that named in any existing law; *provided*, that before entering upon the duties of any such office, such attorney or counsel shall execute a contract with the proper authorities of such city to perform the duties of his office for the salary fixed as aforesaid during the term fixed by said board, and thereafter such attorney or counsel shall hold said office for the term so fixed at the salary fixed by said board, and such salary shall not be increased during said term.

An act concerning cities in this state.

P. L. 1882, p. 131.

Approved March 17, 1882.

Municipal boards may elect chief engineer of public improvements.

544. SEC. 1. That in all cities of this state which now have or hereafter shall have the care of streets, sewers and water vested in a single municipal board, such board shall have power to elect a chief engineer, who shall have been a resident of such city for at least two years prior to his election, and be a civil engineer in active practice in either public or private capacity at the time of such election; such officer so elected shall have full charge of all matters pertaining to the business of a civil or hydraulic engineer in relation to any public improvement or other work proper to be managed under the direction of such municipal board; his term of office shall be for two years from the date of such election, or in any case where such election shall require confirmation by any other city board or officer, for two years from the date of such confirmation, and such officer shall receive such salary as shall be fixed by said board appointing him, not exceeding the sum of five thousand dollars per annum, and such board shall have power to remove him for malfeasance in office or incompetency, after proper trial and opportunity to be heard in his defense; but nothing in this section shall shorten the time of any chief engineer now holding office, unless he shall be appointed to succeed himself for the full term as above, and whenever the act of the appointing board shall require confirmation by any other board or city officer, the incumbent then or now in office shall continue in office until his successor is appointed and confirmed.

Term of office and compensation.

Repealer.

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

An act concerning cities in this state.

P. L. 1882, p. 251.

Approved March 31, 1882.

Board of finance, how appointed.

546. SEC. 1. That in any city of this state where the general management and care of the finances of said city are now, or shall hereafter be committed to a board, the members of which are not elected by the people of said city, the members of said board shall hereafter be appointed by the mayor of said city, who shall, at least three weeks prior to the expiration of the official term of any member of such board appoint his successor; *provided, however*, that not more than a majority of such board shall at any time be members of one political party.

Proviso.

Act not to affect term of present incumbents.

547. SEC. 2. That this act shall not affect the term of present incumbents in any such board.

Vacancies, how filled.

548. SEC. 3. That if a vacancy shall occur in any such board from other cause than the expiration of the term of the incumbent, the mayor of such city shall appoint a person to fill such vacancy for the unexpired term only.

Repealer.

549. SEC. 4. That all acts and parts of acts, general, public, special and local, inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to authorize cities in this state to fix the salaries of city physicians of such cities.

P. L. 1884, p. 246.

Approved April 22, 1884.

550. SEC. 1. [Amended by Sec. 552, *post.*]

Repealer.

551. SEC. 2. That all acts, general, special, local or otherwise, and all charters and parts of charters, inconsistent with the provisions of this act, be and the same are hereby repealed.

Amendatory act.

Approved March 23, 1892. P. L. 1892, p. 226.

552. SEC. 1. That section one of the "Act to authorize cities in this state to fix the salaries of city physicians of such cities," approved April twenty-second, one thousand eight hundred and eighty-four, be and the same is hereby amended so as to read as follows:

Annual salary of city physicians may be fixed by ordinance.

[That it shall be lawful for the board of aldermen or common council of any city in this state to fix by ordinance the annual salary of the city physician and the time and payment thereof; *provided*, that said salary shall not be altered during the term for which he has been or may be appointed; *provided*, *also*, that the term of office shall not exceed three years, the same to be fixed at the time of the election of said city physician; *and provided*, *also*, that this act shall apply only to cities in which the office of city physician is now or hereafter may be created by law.] [See Sec. 600, *post*.]

Proviso.

Proviso

Proviso.

553. SEC. 2. That all acts, general, special, local or otherwise, and all charters and parts of charters inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

An act concerning cities in this state, and authorizing the common council to fix the term and salary of certain officials therein.

Passed April 2, 1885. P. L. 1885, p. 190.

554. SEC. 1. That in any city of this state where the common council has by law the authority to appoint a city counsel or attorney, the said council may at the same time and in the same manner by which the said appointments are now made, fix the term of their said offices at any period not exceeding five years, and when so appointed shall hold office for the term so fixed.

Common council may fix term of office of city attorney or counsel.

An act to authorize the appointment of assistants to city treasurers.

Approved April 28, 1885. P. L. 1885, p. 298.

555. SEC. 1. That hereafter, whenever the council, board of aldermen or other legislative body of any city of this state shall, by resolution, declare it necessary to employ an assistant city treasurer for the proper and efficient management of the public business by the city treasurer of such city, such city treasurer is hereby authorized and empowered to appoint an assistant city treasurer, to hold office during the pleasure of the city treasurer.

City treasurers authorized to appoint assistant.

556. SEC. 2. [Amended by Sec. 559, *post*.]

557. SEC. 3. That the city treasurer of every city shall be held responsible for all acts and official conduct of the assistant city treasurer appointed by such city treasurer under authority of this act.

City treasurer responsible for acts of assistant.

558. SEC. 4. That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Amendatory act.

Approved March 23, 1892. P. L. 1892, p. 178.

559. SEC. 1. That section two of said act be and the same is hereby amended to read as follows:

Compensation of assistant city treasurer, how fixed.

[That the compensation of such assistant city treasurer when so appointed shall be fixed and determined by resolution of the council, board of aldermen or other legislative body of such city, and shall not be increased or diminished within one year after the same has been so fixed and determined.]

An act concerning salaries of certain officers in cities of this state.

P. L. 1886, p. 96.

Approved March 22, 1886.

Salary of clerk of city treasurer.

560. SEC. 1. That where, in the opinion of the board appointing such officer, the salary as now fixed by law for the clerk of the treasurer of any city in this state is inadequate compensation for the services performed by such clerk, it shall be lawful for said board to fix such salary at an amount not exceeding the sum of fifteen hundred dollars per annum; *provided*, that the resolution fixing such salary shall be approved by the mayor of such city before the same shall go into effect.

Proviso.

An act fixing the compensation of commissioners constituting city boards having control and management of water works and the supply and distribution of water in cities of this state having over one hundred thousand inhabitants.

P. L. 1886, p. 162.

Passed March 30, 1886.

Salary of commissioners of water works in cities having more than 100,000 inhabitants.

561. SEC. 1. That the commissioners constituting city boards having control and management of water works and the supply and distribution of water in any city of this state having over one hundred thousand inhabitants, shall each receive and be paid, in lieu of compensation and repayment of all expenses he shall be entitled to receive as commissioner, under the provisions of any law incorporating such city board, an annual compensation of five hundred dollars, to be paid monthly out of any moneys received by said city board; *provided*, the provisions of this section shall not apply to the commissioners of any city board in any city of this state while the bonded indebtedness of such city exceeds fifteen per centum of its ratables liable to municipal taxation in such city, nor where in any city the said commissioners have charge of or control over any other department of the city government.

Proviso.

Repealer.

562. SEC. 2. That all acts and parts of acts, public, general, special or local, inconsistent herewith, be and the same are hereby repealed, and this act shall take effect immediately.

An act to provide for a board of commissioners of assessment in cities when no such board or mode of assessment of benefits is provided by the city charter.

P. L. 1886, p. 223.

Approved April 12, 1886.

Creation of board of commissioners to assess benefits for street improvements.

574-563
36V-511

563. SEC. 1. That when no provision is made by the charter of any city in this state for the appointment or election of a commission or board for the assessment of benefits (or no mode of assessment of benefits other than the charging against each property or parcel the cost of making the street adjoining the same is prescribed), a board of commissioners of assessment is hereby created, and shall consist of the city surveyor and two of its members to be appointed to such board by the governing body of such city, the duty of which board of commissioners of assessment shall be to make assessments for benefits resulting from street improvements according to law, and file such assessment with the clerk of such city; the amount of such assessments shall be recoverable by or in behalf of such city as provided by existing law for the collection of moneys due such city for street improvements or expenditures therefor.

An act concerning city clerks of municipalities in this state.

P. L. 1886, p. 233.

Approved April 16, 1886.

Board of aldermen, &c., may elect clerk.

564. SEC. 1. That hereafter the board of aldermen, city council or other legislative body of any municipality in this state, in which any officer of such municipality is now authorized to act as clerk, shall have power to elect a clerk, any act to the contrary notwithstanding. [See Sec. 610, *post.*]

Repealer.

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

An act concerning cities.

Approved April 28, 1886. P. L. 1886, p. 312.

566. SEC. 1. That it shall be lawful for the board of finance or board having control of the finances of any incorporated city in this state, by and with the consent of all the members of any such board, upon application of the city clerk of such incorporated city, to increase the number of clerks and assistants employed in the office of such city clerk, and to fix the salaries of the entire clerical force employed in said city clerk's office. Board of finance may increase number of assistants to city clerk.

567. SEC. 2. That all acts or parts of acts inconsistent herewith are hereby repealed, and this act shall take effect immediately. Repealer.

An act concerning inspectors of buildings in cities of this state.

Approved April 28, 1886. P. L. 1886, p. 321.

568. SEC. 1. That in all cities of this state it shall be lawful for the board of aldermen or common council of said cities to appoint one inspector of buildings. Inspector of buildings may be appointed.

569. SEC. 2. That said inspector of buildings shall be either an architect, carpenter, mason or other mechanic, whom said board of aldermen or common council shall deem to be capable to fill the position, and that the duties of said inspector shall consist in the careful inspection of all buildings in the course of erection, and any and all buildings undergoing repairs and alterations, and all buildings, chimneys and structures which have become dangerous or unsafe, and to see that proper precautions are taken for the protection of life and property. Qualifications and duties of inspector.

570. SEC. 3. That before any person or persons shall erect, move, raise, or commence to erect, move or raise, any building or buildings, the person or persons intending or desiring to erect, move or raise said building or buildings shall first apply for and obtain from said inspector of buildings a permit to do so, and all failures to comply with this requirement shall be punishable by a fine, to be hereafter provided for by ordinance by said board of aldermen or common council; *provided*, that nothing herein shall affect the present powers of any board of fire commissioners to prohibit and regulate the erection or alteration of buildings and structures. No building to be moved or erected without permit. Penalty. Proviso.

571. SEC. 4. That said board of aldermen or common council shall have power to further prescribe the duties and fix the compensation of said inspector of buildings, either by fee or fixed salary, and to fix his term of office, not to exceed one year. Other duties, salary and term of inspector. 575-571 A99-21

572. SEC. 5. That said inspector shall, at any time, be removable for cause; *provided, first*, that charges and specifications having been preferred to said board of aldermen or common council, said board of aldermen or common council, by ballot, shall decide by a two-thirds vote of all the members of said board to remove said inspector of buildings. Inspector may be removed for cause.

573. SEC. 6. That all acts or parts of acts inconsistent with this act are hereby repealed, and that this act shall take effect immediately. Repealer.

An act concerning cities.

Approved May 11, 1886. P. L. 1886, p. 361.

574. SEC. 1. That the term of office of any mayor hereafter elected in any city of this state shall be two years, notwithstanding any clause in the charter of any city limiting the term for a period less than two years. Term of office of mayor. 575-574 34V-530

575. SEC. 2. That no mayor hereafter elected in any city in this state shall preside over the council, board of aldermen, or other municipal legislative body of such city, and every ordinance of the aldermen or common council and every resolution of the aldermen affecting the interests of the city 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 approve it, he shall sign it, if not, he shall return it with his objections and file the same with the clerk within ten days after he received it, and the aldermen Powers and duties of mayor as to ordinances, resolutions, &c.

or common council shall, at their first regular meeting thereafter, order the objections to be entered at large on the journal, after which they shall proceed to reconsider the same, and if two-thirds of all the aldermen or common council elected shall then pass the same, it shall take effect as a law, but in every such case the votes shall be taken by ayes and nays and entered on the journal; and if such ordinance or resolution shall not be so returned by the mayor within ten days after he shall have received it, it shall become a law in like manner as if he had signed it; *provided always*, that each and every ordinance so passed as aforesaid, shall be published for the space of ten days in the official newspapers before such ordinance shall go into effect; and no ordinance or by-laws shall be passed by the said aldermen or common council unless the same shall have been introduced before the aldermen or common council at a previous stated meeting and upon its passage agreed to by a majority of the aldermen or common council elected; and the presiding officer of such board or council shall be annually selected from and by the members of such board by the votes of a majority of the members thereof.

Proviso.

Term of office of members of council or other governing body.

576. SEC. 3. That the term of office of the members of the city council or other governing municipal body hereafter elected in any city of this state shall be three years, notwithstanding any provision to the contrary in the charter of any such city; *provided, however*, that the members of any such council or board elected at the first election held under the provisions of this act shall draw lots, and if elected by wards, such drawing shall be by the representatives from the several wards separately, and one-third of the members so elected at such first election shall hold office for one year, one-third for two years and one-third for three years; if the number of such council or board cannot be divided into three equal parts, then the excess shall hold office for the long term; after such first election, the vacancies occasioned by expiration of term shall be filled by election for three years. (*a*)

Proviso.

Time for holding municipal elections.

577. SEC. 4. That the time for holding the municipal elections for mayor, members of council or other like boards, and other elective city officers, shall be on the second Tuesday of March, notwithstanding any clause in the charter of any city providing otherwise; and the term of all city officers shall commence on the third Tuesday of March, and the term of all city officers that would otherwise continue for a longer period, shall expire upon the third Tuesday of March, being one week after such election; *provided*, that the officers elected at any election at which this act is adopted shall hold office for at least eight months and until their successors are elected at a municipal election.

When term of city officers to commence and expire.

Proviso.

Salary of mayor may be increased.

578. SEC. 5. That the council or other governing municipal legislative body in such city shall have power to increase the salary of the mayor to a sum not exceeding one thousand dollars ($1,000) per annum; and such council or legislative body shall also have the power to establish a board of education, to consist of seven members, to be appointed by the said council or legislative body, for such terms as may be fixed by said council or legislative body; and such board of education, when established, shall have all the powers now vested in school trustees or any board having charge of education in said city, and shall have power to choose a city superintendent, define his duties and fix his compensation, not to exceed one thousand dollars per annum, and his term of office shall not exceed three years; *provided*, that the terms of the members of the board of education first appointed shall be so fixed that the terms of at least two expire within two months after the next municipal election.

May establish a board of education.

Powers, &c., of board of education.

Proviso.

Common council may submit act to acceptance or rejection of voters.

579. SEC. 6. That the board of aldermen or common council of any city may, by resolution, submit the question of the acceptance or rejection of this act to the voters of said city at the first charter election held after the approval of this act, and if a majority of those who shall vote for the acceptance or rejection of the act shall vote for its acceptance, then this act shall go into effect immediately and shall be deemed to be accepted by

(*a*) This section does not apply to the alderman of Atlantic City, who is *ex officio* a member of the common council, and elected annually. *Stroud* v. *Gouldley*, 23 *Vr.* 62.

such city, and such city shall be bound by the terms of this act; persons entitled to vote at such election shall express their acceptance or rejection of this act by depositing their ballots in the box provided for depositing ballots at such election, in the election precincts or wards of such city, and those who are in favor of the acceptance of this act shall each deposit a ballot containing the words "act accepted," written or printed thereon and those who are opposed shall each deposit a ballot with the words "act rejected," written or printed thereon; and this acceptance or rejection may be written or printed upon the ballot on which are the names, the state, county, city, district or ward officers, and no separate ballot shall be required for the purpose of this vote; there shall be a canvass, on the return of the votes upon this question of such acceptance or rejection, made by the election officers in the same way and manner as for officers voted for at any general or charter election; and if a majority of the ballots on which there shall be either the words "act accepted" or "act rejected" shall be found to be for the acceptance of this act, it shall then go into effect and be binding upon such city wherein such vote shall have been taken, but this act shall not go into effect in any city until so accepted.

Election, how conducted.

When act to take effect.

580. SEC. 7. That all acts and parts of acts, general and special, inconsistent with this act, be and the same are hereby repealed, and this act shall take effect immediately; *provided*, that this act shall not affect or be applicable to any municipality incorporated as a town.

Repealer.

Proviso.

An act to authorize the common council or other governing body in the cities of this state to designate who shall perform the duties of certain officials when such officials are temporarily absent or unable to perform their duties by reason of sickness.

Approved April 1, 1887. P. L. 1887, p. 102.

581. SEC. 1. That where by the law of this state, certain duties are imposed upon the comptroller, treasurer, auditor of accounts, or other heads of departments in the cities of this state, and no person is now by law authorized to perform the duties so imposed by such officers when such officers are temporarily absent or sick, it shall and may be lawful for the common council or the board having control of the finances of such city, by ordinance or resolution, to provide who shall, during the temporary absence or sickness of any such officer, perform the duties so imposed as acting officer, and that the acts of the person or persons so appointed shall be in all cases as legal and binding as if done and performed by the officer for whom such appointee is acting.

Who shall perform duties in absence of heads of departments.

An act providing for the method of the appointment of inspectors of public works in the cities of this state.

Approved April 5, 1887. P. L. 1887, p. 135.

582. SEC. 1. That where by any existing law inspectors are or may be appointed to inspect public works authorized and ordered to be done by any common council, board of aldermen or other governing body, in any of the cities of this state, all such officers shall hereafter be appointed by the common council, board of aldermen or other governing body, in the same manner in which other subordinate officers are or may be appointed in such city, or the common council, board of aldermen or other governing body, in any such city, may at its discretion, in like manner authorize the committee having charge of the particular work for the inspection of which such officers are to be selected to make such appointment.

Inspectors of public works, how appointed.

583. SEC. 2. That such officers so to be appointed shall possess the same qualifications, be subject to the same regulations and liabilities, and be entitled to compensation as now provided by law.

Qualification and salary of inspectors.

An act concerning fees of certain officers in cities of this state.

P. L. 1887, p. 161.

Approved April 11, 1887.

Fees of city collector and treasurer.

584. SEC. 1. That in all cities where no salary is provided, by charter, for the collector and treasurer of the city or the wards thereof, such collector and treasurer shall receive the fees provided by law for township collectors; *provided, however*, that in cities where the treasurer of the board of education disburses school funds upon the order of the board of education, said city collector or treasurer shall not receive the fees now or hereafter allowed by law for disbursing said school funds.

Proviso.

An act authorizing the common council or other governing body of the cities of this state to abolish the office of surveyors of the highways within such city.

P. L. 1888, p. 72.

Approved February 21, 1888.

Office of surveyor of the highways may be abolished.

585. SEC. 1. That it shall and may be lawful for the common council or other governing body of any city in this state, by an ordinance duly passed for that purpose, to abolish the office of surveyor of the highways within the limits of such city, when in such city the duties by law imposed upon such surveyor or surveyors are or may be performed by a city surveyor or other city officer or legislative body.

Repealer.

586. 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.

An act concerning cities.

P. L. 1888, p. 135.

Approved March 6, 1888.

Board of finance may fix salaries of force in city clerk's office.

587. SEC. 1. That it shall be lawful for the board of finance, or board having control of the finances of any incorporated city in this state, upon application of the city clerk of such incorporated city, to fix the salaries of the entire clerical force employed in said city clerk's office.

Repealer.

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

An act to authorize cities of this state to elect a mayor for the term of two years.

P. L. 1889, p. 205.

Approved April 6, 1889.

Term of office of mayor.

589. SEC. 1. That in all cities of this state in which the mayor is now elected annually, the said mayor shall hereafter be elected for the term of two years, commencing with the day fixed by law for the commencement of his term.

Repealer.

590. SEC. 2. That all acts and parts of acts and charter provisions inconsistent herewith be and they are hereby repealed.

An act concerning cities.

P. L. 1889, p. 372.

Approved May 7, 1889.

Municipal authorities may fix compensation of city marshal or sergeant-at-arms.

591. SEC. 1. That the board of aldermen or common council of any incorporated city of this state whose charter authorizes the employment of a city marshal or sergeant-at-arms, may fix the compensation of such officer at the rate of fifteen hundred dollars per annum, and the board of finance or other board having the control of the finances of any such city shall provide the money necessary to pay such compensation; *provided*, that nothing herein contained shall apply to any police officer who is designated by the title herein named.

Proviso.

An act concerning cities.

P. L. 1889, p. 380.

Approved May 7, 1889.

President of common council, &c., may vote on all questions.

592. SEC. 1. That it shall be lawful for the president or presiding officer of the common council, board of aldermen, or other legislative body, however designated, of any city in this state, to vote on any and all measures, resolutions, ordinances and applications now or hereafter before said board for action.

593. SEC. 2. That all acts or parts of acts, general, public, local or special, inconsistent with this act, be and the same are hereby repealed, and this act to take effect immediately. Repealer.

An act empowering water registrars to appoint their own assistant and assistants in cities where the water registrar is now elected by the people.

Approved March 17, 1891. P. L. 1891, p. 167.

594. SEC. 1. That it shall and may be lawful for any water registrar in any city of this state that is now elected by the people, to appoint the assistant or assistants to aid him in his lawful duties that are now provided for by law. Water registrar may have assistants.

595. SEC. 2. 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.

An act to extend and fix the term of office of city treasurers in cities nominated by the mayor and confirmed by the city council or governing board of any city so that the same shall expire with that of the comptroller or other corresponding financial officer.

Approved April 14, 1891. P. L. 1891, p. 361.

596. SEC. 1. That in all cities in which the city treasurer is nominated by the mayor and confirmed by the city council or other governing board of such city, the term of office of the city treasurer therein shall be and it is hereby extended and fixed so that the same shall expire at the same time as that of the term of office of the comptroller or other corresponding financial officer therein, whose term shall expire subsequent to the passage of this act. Term of treasurer in certain cities to expire with that of comptroller.

597. SEC. 2. That all acts and charter provisions inconsistent herewith be and they are hereby repealed, and that this act shall take effect immediately. Repealer.

An act relating to the compensation of the city clerk of any city in this state.

Approved April 16, 1891. P. L. 1891, p. 466.

598. SEC. 1. That [the board of aldermen of any city of this state having the appointment of a city clerk for said city shall have power and it shall be its duty to fix the compensation of such city clerk, and the board of finance or board having control of the custody and finances of such city shall provide the moneys necessary to pay said compensation. Salary of city clerk, how fixed.

599. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately. Repealer.

An act to fix the term of city physicians of cities of this state, wherein the terms of office of such physicians are not fixed by authority of law, and relating to the compensation or salary of such city physicians.

Approved February 17, 1892. P. L. 1892, p. 24.

600. SEC. 1. That the term of office of the city physician of any city of this state not fixed by authority of law, shall be three years from the date of the approval of this act, and after the expiration of such term, the term of office of such city physician shall be for the fixed term of three years from the date of such appointment by the lawful municipal authority of such city; and the annual compensation or salary to be paid such city physician during such term of office shall not be less than the compensation or salary paid such city physician at the time of the approval of this act. (*a*) Term of office of city physician. Salary.

(*a*) This act is special, and therefore unconstitutional. *Tetrault* v. *Orange*, 26 *Vr.* 99.

Repealer.

601. SEC. 2. That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

An act concerning the constitution of the common council, board of aldermen or other governing body of certain cities in this state.

Approved March 26, 1892.

P. L. 1892, p. 288.

Common council, &c., how composed in cities of 12,000 to 15,000 inhabitants.

602. SEC. 1. That in all cities of the second class of this state now having a population of less than fifteen thousand, according to the last state or United States census, the common council, board of aldermen or other governing body of such cities shall consist of three members from each of the wards of such cities, and they shall be elected at the time and in the manner and for the time as now provided by law for the election of such officers in such cities.

Repealer.

603. SEC. 2. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this shall be deemed a public act and shall take effect immediately.

An act concerning the constitution of the common council, board of aldermen or other governing body of certain cities in this state.

Approved March 7, 1893.

P. L. 1893, p. 95.

Governing body in cities of over 50,000 inhabitants, how composed.

604. SEC. 1. That in all cities in this state that now have, or hereafter may have, a population of fifty thousand inhabitants or over, the common council, board of aldermen or other governing body thereof, shall consist of two members in and for each of the wards or aldermanic districts of such cities.

Term of office of certain councilmen, &c., determined.

605. SEC. 2. That in all cities subject to the provisions of this act, where there now are or hereafter may be three or more members of the common council, board of aldermen or other governing body in and for each of the wards or aldermanic districts of such cities, the office as well as the term of office of every member of such common council, board of aldermen or other governing body in and for each of such wards or aldermanic districts, saving and excepting the oldest and next oldest members thereof, in point of service, having regard to the service of the now or then present terms only of all the members, shall immediately cease, determine and end, and then and from thenceforth the common council, board of aldermen or other governing body of such cities shall consist of but two members in and for each of the wards or aldermanic districts of such cities.

Manner of choosing second member of council where there is only one now.

606. SEC. 3. That in all cities subject to the provisions of this act, where there are now or hereafter may be one member of the common council, board of aldermen or other governing body in and for each of the wards or aldermanic districts of such cities, a second member thereof from each of such wards or aldermanic districts shall be chosen in like manner as though a vacancy existed in the office of members of the common council, board of aldermen or other governing body from each of the wards or aldermanic districts of such cities; or, if there be no provision for an election to fill a vacancy in such an office in any of such cities, then at the next succeeding annual city election in such cities.

Term of such officers hereafter.

607. SEC. 4. That hereafter in all cities subject to the provisions of this act, where the common council, board of aldermen or other governing body thereof, now or hereafter shall consist of two members in and for each of the wards or aldermanic districts of such cities, all members of such common council, board of aldermen or other governing body shall be elected for terms of two years each, and in any ward of any city subject to the provisions of this act, where there is or may be, more than one vacancy, one member of council or board of aldermen thereof shall be elected for one year only.

608. SEC. 5. That all acts and parts of acts, general, special, public or local, inconsistent with the provisions of this act, be and the same are hereby repealed. Repealer.

An act relative to the salaries of mayors of certain cities.

Approved March 15, 1893. P. L. 1893, p. 333.

609. SEC. 1. That the annual salary of any mayor of any city having a population of from seventy-five thousand to one hundred thousand inhabitants shall be and the same is hereby fixed and determined at the sum of two thousand dollars; *provided*, *however*, that this act shall not apply to any such city wherein such officer now receives a greater sum. Salary of mayor in city having 75,000 to 100,000 inhabitants.

An act to permit boards of aldermen to appoint their clerk for a period.

Approved April 24, 1894. P. L. 1894, p. 180.

610. SEC. 1. That the board of aldermen of any city in this state where, by the charter of such city, such board has power to appoint a clerk to the board of aldermen, may appoint such officer for a period of three years; *provided*, that the provisions of this act shall not apply to cities of the first class. Term of clerk of board of aldermen fixed. Proviso.

An act concerning the appointment of certain officers in certain cities in this state and fixing their tenure of office.

Passed May 8, 1894. P. L. 1894, p. 244.

611. SEC. 1. That in all cities in this state now or hereafter having within their territorial limits a population of not less than fifty-five thousand, nor more than one hundred thousand inhabitants, the common council, board of aldermen, or other governing board of such city shall, within one month after this act shall take effect, appoint a city clerk, city comptroller, city treasurer, city counsel (who shall be a counselor-at-law), city inspector of buildings, city engineer, and city street commissioner, in lieu of and to be substituted for, and to act in the place of, and who shall in each case respectively be invested with and shall perform all the powers and duties of any such officers by whatsoever title they may be designated now by law to act therein; and which said officers shall be appointed for the term of two years, or until their successors are appointed and qualified, and shall perform the same duties and receive the same emoluments as are now provided by existing laws, and the terms of the first officers appointed hereunder shall date from the time of their appointment under this act, and that such officers shall give bonds for the faithful discharge of their duties in such amounts as may now be required of such officers in such cities, and which said bonds shall be approved as to form by the city counsel of such city, and as to the sufficiency thereof by the said common council, board of aldermen, or other governing body thereof; any vacancy in either of the offices herein provided for shall be filled in the same manner, but for the unexpired term only; and all of such officers shall be sworn in as such officers are now sworn in each of said cities; and that the term of service of every such officer hereinbefore named, holding office in any such city, shall end on the appointment and qualification of their successors as herein provided for; every such officer whose term of office shall so end shall immediately deliver up his office and all property, books and papers, matters and things whatsoever connected therewith to his said successor; *provided*, that in all cities as aforesaid in which, by the provisions of the charter thereof, the city treasurer is elected by popular vote, such city treasurer shall continue to be elected by popular vote, anything in this act contained to the contrary notwithstanding; but the term of office of the city treasurer in any such city is hereby terminated and the common council or other governing body of said city is hereby authorized and empowered to appoint a city treasurer until after the next municipal election of said city, who shall hold his office until his successor is elected as aforesaid and qualified into office. Appointment, terms, duties, &c., of officers in cities of 55,000 to 100,000 inhabitants. 581-611 S00-415 33V-484 Officers shall give bond. Proviso.

Repealer.

612. SEC. 2. That all acts and parts of acts, general and special, public or local, inconsistent with the provisions of this act, be and the same are hereby repealed.

An act to prescribe the mode of filling vacancies in municipal offices in cities of this state when such vacancies have heretofore occurred or shall hereafter occur by reason of the failure of municipal officers to take and subscribe the oath of office within the time prescribed.

P. L. 1894, p. 278.

Approved May 9, 1894.

Officer failing to subscribe oath within prescribed time may, nevertheless, qualify for office.

582–613 A04–23

613. SEC. 1. That whenever any vacancy has heretofore occurred, or shall hereafter occur in any municipal office in any city of this state, by reason of the failure of the person elected or appointed to fill such office to take and subscribe the oath of office required by law, within the time prescribed, such vacancy shall cease, and such office shall be filled, by the person so failing to qualify, upon his taking and subscribing the oath required by law, before any officer of this state authorized to administer oaths, provided such oath shall be taken and subscribed by such person within thirty days after the expiration of the time within which such officer was required by law to so qualify into office.

Repealer.

614. SEC. 2. That all acts and parts of acts, general or special, public or local, inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

An act in relation to the salary of comptrollers in certain cities.

P. L. 1895, p. 360.

Approved March 20, 1895.

City comptroller's salary may be increased in cities having over 75,000 inhabitants.

Proviso.

615. SEC. 1. That the board of aldermen or common council of any city having a population exceeding seventy-five thousand inhabitants may, by resolution, increase the annual salary of the comptroller of the city to an amount not exceeding two thousand dollars; *provided, however*, that this act shall not be construed to limit the salary of such officer in such cities where such officer now receives a larger annual salary.

An act relating to aldermen and members of common councils in cities of this state.

P. L. 1895, p. 813.

Passed June 13, 1895.

No alderman or councilman to hold office or perform duty after expiration of term.

616. SEC. 1. That no alderman or common councilman or member of any board of aldermen or member of any common council of any city of this state, shall hold office or perform the duties of alderman or member of any board of aldermen or common council in this state after the expiration of the term for which he was, has been or shall hereafter be elected, notwithstanding that his successor or their successors in office may not have been elected, or, if elected, may not have qualified.

Repealer.

617. SEC. 2. 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.

2. STREETS, SEWERS, SIDEWALKS AND PARKS.

(a) Of streets only.

An act in reference to street improvements where a petition or application therefor is required.

P. L. 1878, p. 215.

Approved March 29, 1878.

Receiver of corporation may sign petition for street improvement.

618. SEC. 1. That whenever a petition or application is necessary in any city in this state to enable any municipal board in such city to open, lay out, extend or improve any street in such city, that for the purpose of signing such petition or application, and making or authorizing the making of such improvement, the receiver of any corporation, appointed by the court of chancery of this state, owning the land necessary for such improvement shall be deemed and taken to be the owner of such land.

An act to authorize the laying out of an avenue in each city of this state not exceeding eighty feet wide, as provided in this act.

Approved April 5, 1878. P. L. 1878, p. 418.

City having between 15,000 and 117,000 inhabitants may lay out avenue.

619. SEC. 1. That the municipal board in any city having power to lay out and open streets shall have power hereafter to lay out and open one avenue in such city, not exceeding eighty feet in width, without compliance with any of the provisions in the charter of any such city, and only upon compliance with the provisions of this act; *provided*, that the provisions of this act shall not apply to any city of this state having a population of more than one hundred and seventeen thousand or less than fifteen thousand by last United States census. [See Sec. 626, *post.*]

Proviso.

When to be laid out.

620. SEC. 2. That such avenue shall only be laid out when it is to connect some avenue or street already laid out in said city with a street or avenue in an adjoining city; *provided*, that the provisions of this act shall not be construed to apply to any lands lying under water, nor to any grants or conveyances or leases made by the riparian commissioners.

Proviso.

Petition for improvement required.

621. SEC. 3. That there shall be a petition for such improvement, signed by twenty or more freeholders of such city, owning, in the aggregate, property in such city to the amount of not less than one hundred thousand dollars; that if, upon the presentation of such petition, such municipal board shall order the improvement to be made, it shall be made forthwith; the said board shall cause an estimate of the amount of the work to be done and the materials to be furnished to be made, and advertise for bids to do said work, and award the contract therefor to the lowest bidder, but may reject any or all bids or repeal on failure of the contractor to give such bond or security as they may deem proper to secure the city.

Advertisement for bids.

May borrow such sum as shall be necessary to pay expenses.

622. SEC. 4. That the municipal board having control of the finances of such city shall borrow by temporary loan or by bonds, to run twenty years, either registered or coupon, such sum as shall be necessary from time to time to pay for awards for land to be taken and the expenses of such improvement, and these bonds shall be in such sum and in such form as said board may determine; they shall bear legal interest and be sold at not less than par, and shall be signed by the mayor and city clerk, with the seal of the city; the principal and interest of said bonds shall be paid by said board as they fall due by the proceeds of collections of any assessment for such improvement, and any unpaid balance of principal or interest shall be raised by temporary loan, and this loan shall be paid by general tax.

Commissioners of assessment shall ascertain the proper awards to be made for land taken.

623. SEC. 5. That when said board shall order said improvement to be made it shall refer the matter to commissioners of assessment to be appointed by said board, who shall ascertain the proper awards to be made for land taken, and such commissioners shall give notice by advertisement, at least one week, in one newspaper published in such city, (or if none is published in said city, then by a newspaper published in the county where such city is situate,) to be designated by said board, for a hearing of all parties interested, and after such hearing they shall award to the owners of land taken such sums as shall be just for their land taken by said improvement; and they shall make a report and accompany it by a map showing each parcel of land taken by the improvement and the owners' names thereof as far as they can ascertain the same; the awards of the commissioners, if confirmed by said municipal board, shall be paid by the treasurer of said city out of the proceeds of the [lands] hereinbefore mentioned in this act.

Report and map.

Benefits of improvement to be assessed.

624. SEC. 6. That when said improvement shall have been completed and accepted by said municipal board, it shall again be referred to commissioners of assessment appointed by said board, who shall assess all the property benefited (and no more) the amount of the special benefits such property shall have received from such improvement, and shall assess upon the several lots or parcels of land the amount of benefit each shall have received by such improvement, and no more, and in no case shall the benefit be deemed to exceed more than one-half of the cost of the improve-

What to be paid by city.

ment; all of the cost and expense of the improvement in excess of the amount assessed as aforesaid shall be paid by the city at large by tax, and five per centum of said assessment shall be collected yearly.

Improvement, how made.

625. SEC. 7. That such improvement shall be made by macadamizing, not exceeding twenty-four feet in width, the roadway of such avenue, and the cost of such macadamizing shall not exceed three dollars per square yard; the said municipal board shall appoint some discreet surveyor to carry out and superintend said improvement.

May use any street, road, &c.

626. SEC. 8. That in laying out and opening such an avenue as provided for in this act, said board may use any street, road, plank road, or avenue or part thereof and widen the same if necessary; *provided*, *however*, that the provisions of this act shall not apply to any county or counties in this state having less than one hundred thousand inhabitants.

Proviso.

An act to enable municipalities to award compensation for lands taken for streets, and to assess the damages caused by improving such streets, and to provide for the assessment of such costs on lands benefited.

P. L. 1879, p. 279.

Approved March 14, 1879.

In cities of not more than 5,000 inhabitants where lands have been illegally taken for street purposes, commissioners may be appointed.

627. SEC. 1. That where any city, or village since incorporated as a city, by reason of any supposed right under its charter or from other cause, has widened, regulated or graded any street without, by condemnation proceedings or otherwise, having acquired the right to take and appropriate the lands which have in fact been taken and appropriated for such purpose, or without taking lawful proceedings to ascertain and award the damages sustained by owners of real estate by reason of appropriating such lands or regulating and grading such street, it shall be lawful for the corporate authority of such city to apply to a justice of the supreme court for the appointment of three commissioners to review the proceedings had and taken for the improvement of such street. [See Sec. 640, *post.*]

Application to be in writing.

628. SEC. 2. That the said application shall be in writing, and shall set forth the facts upon which it is founded.

Notice to be given of time and place of presentation of application.

629. SEC. 3. That one week's notice of the time and place when and where the said application will be presented to the said justice shall be published in a newspaper published and circulating in said city, and shall be served personally upon the owners of lands fronting upon the improvement who reside in said city, or by leaving the same at their residences, and by mailing the same to non-resident owners at their post-office address, if known.

When commissioners may be appointed.

630. SEC. 4. That the said justice, upon being satisfied that due notice of the application has been granted, and that the facts set forth in the said application are true, and that they are sufficient under the first section of this act to justify the said application, shall appoint three disinterested persons commissioners to review the said proceedings.

To take and subscribe oath.

631. SEC. 5. That the said commissioners, before they enter upon the execution of the duty required of them, shall take and subscribe an oath before some person authorized to administer the same, that they will faithfully and impartially perform the duties required of them.

Duties of commissioners.

632. SEC. 6. That the said commissioners shall view the premises and shall ascertain to the best of their ability the present condition of the street and its condition before it was widened, regulated or graded, and shall examine into the whole matter touching the improvement of said street, and shall ascertain what lands have been taken and appropriated for such purpose, the value thereof, the owner's name, so far as practicable, the damages caused by making the improvement, the costs and expenses thereof to the date of their report, including interest, and thereupon the said commissioners shall assess the total amount of the value of lands taken, and the damages, costs and expenses so ascertained in an equitable manner upon all the lands benefited by the widening, regulating, grading and improving of said street in proportion to the benefit received by each parcel, assessing no parcel, however, beyond the benefit received by it, and

the excess, if any, of such cost, damages and expense shall be borne by the city at large.

633. SEC. 7. That the commissioners shall make a report of the estimate and assessment so made by them, and before proceeding to sign the same shall file it in the office of the city clerk for examination by parties interested therein, and shall give ten days' notice, by publication in two newspapers published or circulated in said city, that such report has been deposited as aforesaid, and also the time and place when and where the parties interested can be heard by the said commissioners; and after hearing the parties, the said commissioners shall proceed and complete the report and sign the same and return it with all objections in writing, which shall be presented to and left with them by any of the parties interested, to the city council. Commissioners to make and file a report.

634. SEC. 8. That every report made as aforesaid and presented to the city council shall be referred by them to the proper committee for consideration; and in case of any objection in writing being returned with such report, the said committee shall give ten days' notice, by publication in two newspapers published or circulating in said city, to the parties interested, of the time and place where and when they will meet to hear them on the objections and report; and said committee shall thereupon examine the matter and report to the city council and return to them the said report of the said commissioners with the objections of the parties, together with the views and opinions of the said committee respecting the said report. Report to be referred to proper committee of city council.

635. SEC. 9. That the city council shall, within thirty days thereafter, examine the matter and may correct said report, if they deem proper, and ratify the same; or they may return such report to the said commissioners who may have signed the same, and the like proceeding shall be had when the report is returned as in the first instance. Proceedings if report is not ratified.

636. SEC. 10. That when the commissioners in the said report shall have made an award to any owner for land taken, or damages done, or both, and have made no assessment for benefits against the same owner, in such case the full amount of the award shall be paid to such owner; but where an assessment for benefits shall have been made against such owner, only the excess of the award for land taken and damages over the assessment for benefits shall be paid to such owner; such payment shall be made by the city treasurer under the direction of the city council to the owner, if a resident in said city; but if any such owner is not resident in said city, or if, upon due inquiry, cannot be found therein, or is under age, or if for any other lawful causes he is incapacitated to receive the same, then the city treasurer shall make affidavit of such facts and file the same with the city clerk, and the said city council, inquiring into the facts, shall cause the amount to be placed at interest [on] good security for the use of the person for whom it may be due. Amount to be paid to owner for land taken or damages sustained.

637. SEC. 11. That upon the payment of the said awards in manner aforesaid, the land so appropriated for such street shall be regarded as lawfully condemned to the public use, and the assessments for benefits, or in case of awards for lands taken and damages, the excess of such assessment over the awards, with interest at six per centum per annum from the date of the making and signing of said report by the commissioners, shall be and remain a lien upon the lands upon which they are assessed, and shall be proceeded with and collected within the same time and in the same manner and under the same penalties as assessments of benefits for regulating and grading streets are directed to be collected under the present laws governing such city. When land is to be considered as lawfully condemned for public use.

638. SEC. 12. That in case of the resignation, death, disability or refusal to act of one or more of the said commissioners, it shall be lawful for the said justice, upon notice, and the case of the appointment of the original commissioners, to supply by appointment the vacancy or vacancies caused by such resignation, death, disability or refusal to act. Vacancy among commissioners, how filled.

639. SEC. 13. That the commissioners shall be entitled to receive for their services the sum of three dollars a day each, which fees, together with any cost incurred by them for surveying, examining titles, procuring maps, shall Compensation of commissioners.

be regarded and assessed as part of the costs of the said improvement; *provided*, that nothing in this act contained shall take away or affect any right to certiorari which any person may have by virtue of any proceedings hereunder.

Proviso.

Restriction of act.

640. SEC. 14. That this act shall take effect immediately, but it shall not apply to any city which contained more than five thousand inhabitants by the census of one thousand eight hundred and seventy-five.

An act for the adjustment and payment of damages to owners of property caused by the alteration in grade of streets in any city of this state where the office of commissioners of streets and sewers exists.

P. L. 1880, p. 133.

Approved March 10, 1880.

Commissioners to determine amount of damages done to property by alteration of grade of any street and deliver certificate to owner or owners.

641. SEC. 1. That in all cases where damage has been or may hereafter be done to any property on the line of any street in any city of this state by alteration in the grade of such street, by order of any board of commissioners of streets and sewers of such city, it shall be lawful for the said board of commissioners of streets and sewers to ascertain and determine the amount of such damages, and, upon such determination, to deliver a certificate thereof to the said owner or owners thereof, and upon presentation of such certificate to the common council of said city, it shall be the duty of said common council to include the amount thereof in the statement of moneys to be raised by tax for the use of such city next after the time of such presentation; and such moneys shall be collected as other moneys are collected by tax, and shall be paid to the holder of such certificate by the treasurer or other disbursing officer of said city out of the moneys so collected.

Money to be collected by tax, and paid to holder of certificate.

An act authorizing the municipal board of any city having cognizance and control of the cleaning of streets to terminate contracts in reference thereto prior to the expiration thereof as fixed in such contract, when the contractor and his bondsmen shall consent thereto.

P. L. 1883, p. 229.

Approved March 23, 1883.

Municipal board may terminate contract for cleaning streets, removing ashes, &c., with consent of contractor, &c.

642. SEC. 1. That the municipal board of any city which shall have cognizance and control of the cleaning of streets, and which shall have heretofore entered into a contract for the cleaning of the streets of such city, and for the collection of the ashes, garbage and street sweepings and the removal of the same from the streets of such city, shall have power, without the action or concurrence of any other municipal board, to terminate any such contract prior to the expiration thereof, if such board making such contract shall determine that it is for the best interests of said city so to do, and the contractor and his bondsmen shall file their written consent thereto; *provided, however*, that such termination of such contract as is provided for in this act shall not affect the rights of the municipality, or of the contractor under such contract prior to such termination thereof, under the provisions of this act.

Proviso.

An act to authorize cities in this state in certain cases to extend streets now partly opened and to pay for such extension.

P. L. 1884, p. 272.

Approved April 28, 1884.

Cities authorized to open streets where same are now opened at both ends.

643. SEC. 1. That in all cities of this state the mayor and common council or municipal board of any such city having power to open streets, are hereby authorized and it shall be lawful for such mayor and municipal board to open any street where such street is now opened at both ends, but said street is not a continuous street by reason of the erection of buildings across such street between the present terminal points thereof and such building or buildings, and the land whereon the same is or are erected is claimed under a title adverse to any claim which such city has or claims

to have such portion of said land as would form a portion of such street if the same were not bisected or obstructed by such building or buildings, and the mayor and said municipal board of any such city are hereby empowered, for the purpose of extending such street through such buildings and over the lands so held under any adverse claim of title according to the full width of the street as now opened or laid out, to proceed to condemn such land and building or buildings, or so much thereof as would obstruct the said street if the same were continued as aforesaid.

May condemn lands and buildings.

644. SEC. 2. That when the mayor and common council of said municipal board of any such city mentioned in section one cannot agree with the owner or owners of such required lands and building for the purchase thereof, or when, by the legal incapacity or absence of such owner or owners, no such agreement can be made, a particular description of the land and buildings so required as aforesaid by any city for the extension of such street or streets shall be given in writing by said mayor and common council or like municipal board of any such city, and also the name or names of the occupant or occupants, if any there be, and of the owner or owners, if known, and their residence, if the same can be ascertained, to one of the justices of the supreme court of this state, who shall cause the mayor and common council or said municipal board of any such city mentioned in section one to give notice thereof to the persons interested, if known and in this state, or if unknown and out of this state, to make publication thereof as he shall direct, for any term not less than ten days, and to assign a particular time and place for the appointment of the commissioners hereinafter named, at which time, upon satisfactory evidence to him of the service or publication of such notice aforesaid, he shall appoint, under his hand and seal, three disinterested, impartial and judicious freeholders, residents in the county in which the land in controversy lies or the owners reside, commissioners to examine and appraise the said land and buildings, and to assess the damages, upon such notice to be given to the persons interested as shall be directed by the justice making such appointment, to be expressed therein not less than ten days; and it shall be the duty of said commissioners (having first taken and subscribed an oath faithfully and impartially to examine the matter in question and to make a true report according to the best of their skill and understanding), to meet at the time and place appointed and to proceed to view and examine the said land and buildings, to make a just and equitable estimate or appraisement of the value of the same, and an assessment of the damages to be paid by the mayor and common council or said municipal board mentioned in section one for such lands, buildings and damages aforesaid, which report shall be made in writing, under the hands and seals of the said commissioners, or any two of them, and filed within ten days thereafter, or at such later date as said justice may order, together with the aforesaid description of the land, buildings and the appointment and oaths or affirmations aforesaid in the clerk's office of the county in which the land is situate, to remain of record therein; and thereupon and on payment or tender of payment of the amount awarded as hereinafter provided, or if for any reason a lawful tender cannot be made when upon depositing the money under an order of the said justice as he shall direct, the said mayor and council or said municipal board of any such city mentioned in section one is hereby empowered to enter upon and take possession of the said lands for the purposes aforesaid, and the said report, or a copy thereof, certified by the clerk of said county, and proof of payment or tender of the amount awarded, shall at all times be considered as plenary evidence of the right of any city to have, hold, use, occupy, possess and enjoy the said land, or of the said owner or owners to recover the amount of said valuation, with interest and costs, in an action of debt in any court of competent jurisdiction in a suit to be instituted against the city, if the proper authorities shall neglect or refuse to pay the same for twenty days after demand made of them; and the said justice of the supreme court, upon application of either party, and on reasonable notice to the others, tax and allow such costs, fees and expenses to the justice of the supreme

Proceedings in case city authorities and owners of lands and buildings cannot agree.

Appointment of commissioners.

Commissioners to make report, &c.

Report to be filed.

court, commissioners, clerks and other persons performing any of the duties prescribed in this section as he shall think equitable and right, which shall be paid by the said city; *provided always*, that should the said city or the owner or owners of any of the land or any party in interest feel aggrieved by the decision of the commissioners aforesaid, he, she or they may appeal to the next circuit court in the county wherein the said land may be.

Proviso.

Proceedings in case of appeal from decision of commissioners.

645. SEC. 3. That every appeal from the decision of the commissioners, appointed under the preceding section, shall be made in writing and in the form of a petition to said court, and filed with the clerk of the said circuit court of the county wherein the land appraised by the said commissioners shall be, and notice in writing of such appeal shall be given to the opposite party within ten days after the filing thereof, which proceeding shall vest in the circuit court full right and power to hear and adjudge the same and to direct a proper issue for the trial of said controversy to be found between the said parties, and to order a jury to be struck and a view of the premises to be had, and the said issue to be tried at the next term of said court to be holden in the said county, 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 and building taken and the damages sustained, and if they shall find a greater sum than the said commissioners shall have awarded in favor of the said owner or owners, then judgment thereon with costs shall be entered against said city, and execution awarded therefor; but if the said jury shall be applied for by the owner or owners and shall find a less sum than the said city shall have offered or the said commissioners shall have awarded, then said costs shall be paid by the said applicant or applicants, and either deducted out of said sum found by the said jury or execution awarded therefor as the said court shall direct; but such application shall not prevent the said city from taking the said land and buildings upon filing the aforesaid report; *provided*, that in no case whatever shall said city enter upon or take possession of any land or building of any person or persons for the purpose of extending any street as aforesaid under this act, until they have paid or tendered to the party or parties entitled to receive the same the amount assessed by the commissioners as the value of such land, buildings or damages, in case the report of commissioners is not appealed from, or if the same is appealed from, then the amount which shall be found by the jury by whom the issue shall be tried; but in case the party or parties entitled to receive the amount assessed by the commissioners, in case there shall be no appeal, and in case of appeal the amount found by the jury, upon tender thereof being made and failure to receive the same, or upon payment thereof, or shall be out of the state, or under any legal disability, then the payment of the amount assessed or found as aforesaid into the circuit court of the county wherein said lands lie shall be deemed a valid and legal payment; and further, that the party or parties entitled to receive the amount assessed by the commissioners may, upon tender thereof being made, receive the same without being barred thereby from his or their appeal from the report of the commissioners; and on such tender or payment of the money into court, in case it shall be refused as aforesaid, the said city shall be empowered to enter upon and take possession of said lands and buildings and proceed with the work of extending such street as aforesaid.

Proviso.

Act not to apply to street heretofore vacated.

646. SEC. 4. That nothing in this act contained shall authorize any mayor and common council or like municipal board to open or extend any such portion of any street as has been heretofore vacated by law.

Benefits to be assessed.

647. SEC. 5. That the officers of any such city who are charged by law with the making of assessments for street improvements shall assess so much of the cost and expense of such opening upon the lands specially benefited thereby in proportion to the benefit received as is equal to the special benefit to said land; *provided*, that in no case shall the assessment exceed the special benefit, and any excess over such special benefit shall be paid by the city at large by taxation, which said excess is directed to be

Proviso.

raised by taxation, and the amount of the excess shall be placed in the tax levy of the following year.

City authorities may borrow money and issue bonds.

648. SEC. 6. That to provide moneys necessary to carry this act into effect, the mayor and common council or like municipal board of any such city shall have power to borrow money in anticipation of the collection of the assessment and taxes above referred to, either by temporary loans or by the issue of bonds to an amount not exceeding the cost of such purchase of any such street and building and making such improvement; said bonds having not more than ten years to run, and bearing interest at a rate not exceeding six per centum per annum, which bonds shall not be sold for less than their par value.

Sinking fund, how established.

649. SEC. 7. That all moneys received as principal and interest on account of said taxes and assessments for which said bonds shall be issued by virtue of the provisions of this act, are hereby pledged and appropriated to a sinking fund to be established for that purpose for the payment of the principal of said bonds hereby authorized to be issued.

Repealer.

650. SEC. 8. That all acts and parts of acts, general, public, local or special, inconsistent with this act, be and the same are hereby repealed, and this act shall take effect immediately.

An act to authorize cities to make permanent improvements in the roadbeds of streets at the general expense.

Approved May 13, 1884. P. L. 1884, p. 341.

Cities may order streets paved, &c., at general expense of the city.

651. SEC. 1. That it shall be lawful for the board of aldermen or common council now having legal power to make street improvements of any city, by ordinance, to order that the roadbed of any street or avenue shall be paved, repaved, macadamized, repaired with broken stone, or otherwise permanently improved, at the general expense of the city, and the expense of such work shall be in such case paid out of the moneys raised by tax for the improvement of streets; any such ordinance shall be passed in the same manner that other ordinances of such city requiring the expenditure of money are passed; but this act shall not be construed to prevent the doing of such work by proceedings for assessment as heretofore. (*a*)

An act concerning cities, regulating the manner of payment of awards for damages for lands taken for public streets.

Approved April 28, 1885. P. L. 1885, p. 302.

How awards of damages for lands taken for public streets shall be paid.

652. SEC. 1. That where awards of damages for lands taken for public streets have been or shall hereafter be made in any city or town in this state, payment of such awards may be made in the following manner, viz.:

I. In case all the land of any owner shall be taken for such improvement, the award of damages therefor shall be paid as heretofore;

II. In case a part of the plot or contiguous plots of land of any owner shall be taken, the city may issue a bond in payment for each such award for the portion so taken, said bond to be payable in one year from the date of ratification of the said award for damages, to be issued under the corporate seal of the city, signed by the mayor and countersigned by the city clerk, and shall state for what award it is issued, the number of the plot on the commissioners' map, and shall indicate, by a short description or reference, the remaining portion of the said plot or contiguous plots belonging to the same owner at the time of making the said award, and shall contain such conditions as may be necessary to carry out the spirit and intent of this act, and such bond may be offset against any subsequent assessment of benefits for the said improvement assessed against or from the remaining portion of said plot or contiguous plots of ground; and if the assessments for benefits upon the remaining portion of said lands shall be less than [the] amount of said bond, the city shall only be obliged to pay the difference between the amount of said award, as stated in said bond,

(*a*) See *Bacon* v. *Elizabeth*, 22 *Vr.* 246.

and the assessment of benefits, together with the interest on such difference from the date of the ratification of the said award; and in case the assessments of benefits shall be greater than the said award for damages, the bond shall be offset against the said assessment, and upon the delivery of the same to the collector he shall receipt for and cancel that amount on account of said assessment of benefits, and shall thereafter be entitled to collect only the difference between said award for damages and said assessment of benefits, together with interest on such difference from the date of confirmation of said assessment of benefits; and in case no assessment of benefits shall be made within one year from the ratification of such award for damages, the whole amount of such award mentioned in every such bond shall become and be due and payable, together with interest thereon from the date thereof.

When city may enter upon lands and complete improvement.

653. SEC. 2. That whenever such bonds shall be executed and delivered, or tendered in the manner now prescribed in the charter of any such city, to the owner or owners of the lands for which such awards shall be made, the city shall have the full right to enter upon and take possession of such lands and carry out and complete such improvement.

Repealer.

654. SEC. 3. That this act shall be a public act and 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.

An act to authorize the building of tunnels under a navigable water-way or basin in cities.

Approved April 22, 1886.

P. L. 1886, p. 262.

Cities authorized to lay out and construct tunnel under water way or basin to connect streets.

655. SEC. 1. That when, in a city, any street or streets have been improved by such city to or within one hundred feet of any navigable water-way or basin, on both sides of the said basin, and for any reason it shall be deemed advisable to build a tunnel or tunnels under such water-way or basin, to connect such street or streets or parts of streets, at or near the end or ends thereof, with a street or streets or parts of streets, or at or near the ends thereof, on the opposite or other side of such water-way or basin in the same city, then it shall be lawful for the board or other authority of such city having cognizance and control of the opening of streets to lay out and construct a tunnel under such water-way or basin, and under such parts of such streets or adjacent streets, highways or avenues as shall be desirable to make the grade of such tunnel and approaches a practicable one, with the necessary approaches thereto on each side, connecting such street or streets or part of streets with a street or streets or parts of street or adjacent streets or highways or avenues on the opposite or other side of such water-way or basin, in the same city, of sufficient size to accommodate the public travel thereby and therein, instead of over such street or streets or adjacent streets, highways or avenues where such tunnel or its approaches shall be built; the proceedings for the construction shall correspond, as far as practicable, with the proceedings as prescribed by law in such city for the construction of sewers, except that the cost thereof and of the approaches thereto shall be paid by the city at large; *provided*, that such tunnel or tunnels and the approaches thereof shall lie wholly within some city of this state; *and provided*, the streets, highways or avenues of said city have or has been actually opened on each side of said water-way or basin so to be tunneled.

Proceedings for construction.

Proviso.

Proviso.

Proceedings on application for such construction.

656. SEC. 2. That fifty owners of land lying within such city may present to such board an application in writing, designating the place where such tunnel or tunnels and approaches are to be built, and setting forth the particulars, bringing the places within the meaning of the first section of this act, and praying that such tunnel or tunnels and approaches be built; the board may, in their discretion, thereupon proceed to act upon said application in the same manner, so far as practicable, as is now provided by law for proceedings to construct sewers in such city, except that no assessment shall be made, and except that no petition signed by the owners of one-third of the frontage of land along the improvement desired

shall be necessary, and except that no remonstrance signed by the owners of property along the improvement desired shall stop the improvement; and if such board determine to construct such tunnel or tunnels and approaches applied for, or such as may be resolved upon by said board, they may locate the same wholly on private lands, or partly in streets or highways or avenues and partly on private lands; and power and authority to enter upon, open, use and occupy such portion of any such street, highway or avenue in said city as may be necessary or proper to properly construct such tunnel or tunnels and approaches, is hereby vested in said board.

657. SEC. 3. That the costs and expenses of the construction of such tunnel or tunnels and approaches, including the cost of real estate acquired therefor, if any, and the damages, if any, sustained by the owners of property fronting along said improvement, shall be paid by the city, and said city may issue its bonds to the amount necessary to pay the same, which bonds shall be of such denomination, form, terms and conditions, and bear such rate of interest, not exceeding six (6) per centum per annum, as shall be determined by the board or body of such city having charge of the finances thereof, and shall be executed under the common seal of the city and the signature of the mayor and other proper officers thereof.

Costs and expenses of construction of tunnel to be paid by the city.

Bonds may be issued.

658. SEC. 4. That when any such tunnel or tunnels or approaches shall be located upon any land other than a highway, avenue or street, or such as has already been acquired by the city, and such land or any easement, right or estate therein shall be necessary for the construction of such tunnel or tunnels or approaches, then it shall be lawful for said city to acquire the said lands in fee-simple or any lesser estate or right therein; the proceedings for acquiring such property shall conform to the proceedings now provided by law for the acquiring of lands for the opening of such streets in such city; in case it shall be necessary to own or take any lands of the state under or above tide-water, or the state's interest therein, it shall be lawful to take and use such lands or interest for said purposes, and the state hereby assents to such taking without compensation; the proceedings to ascertain the damages, if any, sustained by the owner or owners of lands fronting on such improvement, by reason of the building and maintaining such tunnel or tunnels or approaches, shall conform as near as may be to the proceedings now provided by law for the ascertaining the damages sustained by the owners of any property injured by the change of grade of a street where such street has been built upon since the establishing of a former grade in such city.

City may acquire lands necessary therefor.

Proceedings for the acquisition of lands.

Damages to landowners, how ascertained.

659. SEC. 5. That there shall be placed in the tax levy of such city, annually, a sum not less than two per centum and not more than three per centum of the principal of such bonds, and the same, when collected, shall be paid to the commissioners of the sinking fund of such city; if no such commissioners, then to the other proper authorities of such city, for the redemption and payment of the bonds issued under the authority of this act.

Principal of bonds, how paid.

660. SEC. 6. That the said board first mentioned in this act, with the mayor of such city, are hereby authorized and empowered to enter into contract with the owner or owners of the lands fronting on all or any part of said proposed tunnel or tunnels or approaches, or with any person or persons who may prefer a tunnel to other means of connecting as aforesaid, whereby such owner or persons may themselves build or erect said tunnel or tunnels and approaches, or whereby they may contribute towards the building of the same such sums of money as in the judgment of such authorities last mentioned may be just and fair, in consideration of the said authorities vacating the whole or any portions of such street or streets over and above and on each side of the proposed tunnel or tunnels or approaches, which vacation said authorities last mentioned are hereby empowered and authorized to do and make in consideration thereof, any law, usage or charter to the contrary notwithstanding; *provided*, that no contract or act of vacation under this act shall impair the public right in any such street or part of street until such tunnel is completed.

Board and mayor authorized to contract with owners of land for the construction of tunnel or approaches.

Proviso.

Estimated cost of tunnel and damages to owners to be filed, &c.

661. SEC. 7. That the board authorized to construct such tunnel shall file with the board having the charge or control of the finances of such city, a statement in writing in detail of the estimated cost of such tunnel or tunnels, and of the estimated damages to be paid to property-owners by reason of the construction thereof and the approaches; and the last-named board shall, if it agree thereto, concur therein; but until such a statement shall have been filed, to which said last-mentioned board shall have certified its concurrence, no contract or act of vacation, under section six of this act, shall be made.

An act relating to the change of grade of streets in cities of this state.

P. L. 1889, p. 378.

Approved May 7, 1889.

On altering grade of streets damages may be awarded to owners of buildings.

662. SEC. 1. That where any city of this state has power to change the grade of any street or part of a street upon which any house or other building stands, or is erected, it shall be lawful for the municipal authorities in any such city, through its proper officers, to make, or cause to be made, the proper award for damages, if any, ensuing or arising to the owner or owners of any such house or other building standing and erected upon any such street or part of a street, the grade whereof is changed as aforesaid.

Damages to be assessed upon lands benefited.

663. SEC. 2. That the damages mentioned in this act to be paid to such owner shall be assessed upon and paid by the lands and real estate benefited thereby, in proportion to the benefits received, and such damages shall be ascertained, estimated and assessed, and the amount thereof shall afterwards be justly and equitably assessed and apportioned upon the lands and real estate benefited thereby, by such municipal authorities, through its proper officers, as aforesaid.

Repealer.

664. 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 be deemed to be a public act, and shall take effect immediately.

An act concerning the laying out and opening of streets in cities.

P. L. 1891, p. 360.

Approved April 14, 1891

Proceedings for opening streets where ownership of land required is in dispute.

665. SEC. 1. That whenever the board of aldermen, common council or any other municipal authority in any city of this state shall be required by any law, general or special, to endeavor to agree with the owner or owners for the purchase of any lands necessary to be taken for use as a public street before proceeding to condemn the same by the exercise of the power of eminent domain, it shall be lawful, in case the ownership of any such lands shall be in dispute between two or more persons, for the municipal authorities of such city to proceed, with respect to such lands, in the same manner as where no agreement can be made by reason of the legal incapacity of any owner of lands necessary to be taken as aforesaid.

An act to provide for the repaving, repairing and improvement of paved streets in cities of this state.

P. L. 1891, p. 421.

Approved April 14, 1891.

One-half of license fees in cities to be set apart to repave and repair paved streets.

666. SEC. 1. That it shall be lawful in any city of this state for the board having charge and control of the finances thereof to appropriate and set apart annually, with the consent of the mayor, for the period of six years from the date hereof, out of the license fees received in such city for licenses to sell spirituous or malt liquors, one-half thereof for the repaving, repairing and improving of paved streets in such city, and said moneys so appropriated shall be disbursed, applied and expended for such purposes exclusively by the board or department of such city charged with the duty of paving and repairing streets, and by no other board or authority nor for any other purpose whatever.

667. SEC. 2. 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 concerning cities.

Approved March 15, 1893. P. L. 1893, p. 330.

668. SEC. 1. That whenever objections or remonstrances in writing to the paving of any public street or alley shall be received in answer to the public notice of intention of the common council, board of aldermen or other governing body of any city to cause any public street, or alley or section of such street or alley, to be paved pursuant to the determination of said common council or other governing body, and such objections are from the owners of one-half in running feet of lots fronting or bordering upon said street or alley, or section of a street or alley, the common council or other governing body of any such city may, notwithstanding any such objections, proceed to adopt an ordinance for the paving of said public street or alley, or section of such street or alley, and to award contracts for the doing of said work; *provided, however*, that any such ordinance for the paving of any such public street or alley shall require for its final passage a vote of not less than four-fifths of the whole number of such common council or other governing body. Common council, &c., authorized to adopt ordinance for paving street, &c., notwithstanding objections thereto. Proviso.

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

An act concerning street improvements in cities.

Approved May 9, 1894. P. L. 1894, p. 250.

WHEREAS, The assessment laws now in force relating to street improvements are complex in detail, slow in operation, and are burdened with costs of advertising, engineering fees, legal services, inspection fees and assessing fees, rendering the cost of any street improvement assessed against specific property an uncertain sum; *and whereas*, property-owners frequently petition the governing bodies in cities for permission to grade, curb, pave and sewer streets, the total expense to be borne by such property-owners; *and whereas*, without affecting the assessment laws now in force in cities of this state, and to enable property-owners who, at their own expense, are desirous to obtain and pay for street improvements and to enable the governing bodies of cities to direct and control such improvements; now, therefore, Preamble.

670. SEC. 1. That in cities of this state the property-owners or their representatives owning or representing all of the property fronting on any street or part of a street in any city of this state may petition the governing board or body having control of streets, lanes, alleys and public places for the grading, curbing, paving and sewering of streets, lanes, alleys or public places, or any part thereof, in any city, stating in such petition that the petitioners represent the whole lineal frontage where the improvement is asked for, and also stating the character of the improvement desired and that the petitioners will pay the total contract cost of such improvement, including inspection fees, whereupon such governing board or body, if it grants such petition, shall prepare specifications for the work to be done to complete such improvement, which specifications shall name a price to be paid for inspection fees, the amount of which fees is to be set out in the specifications, whereupon such governing board or body shall advertise for bids or proposals in accordance with such specifications, which advertisement shall be inserted in the official newspaper or newspapers of the city, and shall be advertised for a space of not less than six days, and such advertisement shall call for sealed bids or proposals and state the time and place of receiving such bids or proposals, at which time and place they shall be publicly opened and laid over for one week, at the expiration of which time the contract shall be awarded to the lowest bidder, and an inspector appointed, who shall receive the compensation as fixed in the Proceedings for grading, curbing, paving and sewering streets, &c.

specifications, unless, in the meantime, the aforesaid petitioning property-owners representing a majority of the lineal feet of property on the line of the improvement file with the clerk of such board or body the amount of money already incurred or spent for advertising for proposals or bids, together with a petition in writing requesting such board or body not to award such contract, but requesting a re-advertisement, whereupon such board or body shall re-advertise for bids or proposals.

What costs shall be assessed on properties.

671. SEC. 2. That the only cost of any improvement as aforesaid which can be assessed upon the property shall be the actual amount paid to the contractor for the materials furnished, work done and inspection fees; the cost of advertising, legal, engineering and assessment fees shall be paid by the city by general tax, and that the law officer or officers, the engineer or engineering bureau, the board or body assessing property for annual taxes now receiving an annual salary in any city shall perform the legal, engineering and assessment work hereinbefore and hereinafter provided in this act without any additional compensation.

Engineer shall file statement of cost, &c.

672. SEC. 3. That upon the completion of the work done by contract as herein provided, the engineer or engineering bureau of the city shall file a statement showing the exact amount ordered paid to the contractor for materials furnished, work done and inspection fees with the board or body in any city authorized to make the annual assessments for taxes, which board shall proceed to apportion such total cost upon the total amount of lineal feet fronting upon the improvement, so that the whole lineal feet is charged with the total cost and each lineal foot is charged with an amount equal to every other lineal foot, which apportionment shall have the force and effect of an assessment and be binding and chargeable as a first and paramount lien upon the property affected, and such board or body shall divide the total amount so apportioned to each property-owner fronting upon the improvement into five equal parts, whereupon such board shall confirm such assessment and apportionment, naming the date when the same was made and file the same as a record of liens against the property so apportioned and assessed, with the official receiving annual taxes.

Apportionment shall be a lien on the property.

Payment shall be made in five annual installments.

Interest shall be charged.

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673. SEC. 4. That after the making of the assessment and apportionment as herein provided, the property-owners, successors, heirs or assigns shall have five years from the date when the annual tax is payable next after the making of the aforesaid assessment and apportionment in which to pay for such improvement; the amount assessed or apportioned against each piece of property shall bear interest at the rate of seven per centum per annum from the date of confirmation, and that the payments shall be made in five annual installments; the first installment is to be payable when the annual tax is payable next after the making of the aforesaid assessment and apportionment, and each installment thereafter shall be payable on and after the date of payment of annual taxes of each year in any city wherein the installment is payable, and the property-owner shall at any time after the aforesaid confirmation have the right to pay the whole amount assessed and apportioned against such property-owner's property, with interest as aforesaid from the date of confirmation to date of payment; all payments herein provided for shall be paid to the official authorized to receive the payment of annual taxes.

Tax receiver shall not receipt for taxes unless annual installment is paid.

674. SEC. 5. That the official receiving annual taxes shall not be permitted to receive or receipt for annual taxes against any property on which an assessment and apportionment have been made as herein provided, unless at the same time payment is made for the annual installment and interest as herein provided.

Collection of assessments, how enforced.

675. SEC. 6. That all property against which each installment is apportioned as aforesaid shall be subject to the laws now in force for the collection of assessments and taxes and all such assessments, apportionment and installments shall be enforced and collected in the manner now or hereafter provided by law for the collection of taxes and assessments in such city, and it shall be lawful for the common council or other governing body of such city to provide by ordinance or resolution for such enforcement and

collection in accordance with the provisions of this act and the laws of this state.

City may issue improvement certificates.

676. SEC. 7. That to provide the money to pay for the materials furnished, work done and inspection fees contracted for by virtue of the provisions of this act, any city ordering such improvement shall be authorized to issue to the contractor improvement certificates, to bear interest at a rate not exceeding five per centum per annum, payable at the option of the city and within six years from date.

Fiscal officers shall keep account thereof.

677. SEC. 8. That the fiscal officers of any city wherein any improvement is made as herein provided shall keep in their written and published accounts a separate account of the improvement certificates issued under the provisions of this act, which accounts shall be styled "six-year improvement certificates," and under such head shall be shown the total issue of such certificates for each separate improvement, and the date and amount of the payment on account.

Governing body shall pass resolution with itemized statement, and certify same to board of finance, who shall borrow necessary amount.

678. SEC. 9. That in order to take advantage of the provisions of this act and put and keep the same in operation in any city, such board or body ordering the contract work herein provided shall pass a resolution duly certified, together with an itemized statement of the cost of advertising as herein provided, and any and all costs not herein provided and which are necessary to carry out the provisions of this act, and also a statement of the costs of continuing any improvement in or across any street intersections, if such continuation is necessary to carry into full effect any improvement which may be entered into by virtue of the provisions of this act, provided such work is done at the rates of the contract price paid for the improvement as heretofore provided, and shall forward such resolution and statement to the finance board or other body in such city having the control of finances and the control and making of appropriations, and such last-named board or body are authorized to borrow such sums of money so certified as aforesaid in anticipation of taxes to be thereafter levied, and to issue evidences of indebtedness therefor at a rate of interest not exceeding five per centum per annum; *provided*, that any money borrowed as aforesaid shall be met and paid by an appropriation in the tax levy next thereafter to be levied in any such city.

Finance or other board may borrow money.

Proviso.

An act to enable cities of this state to improve any street or streets, or portion thereof, and to provide payment for the cost and expenses of such improvement.

Passed May 23, 1894. P. L. 1894, p. 485.

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Paving of streets authorized.

679. SEC. 1. That any city within this state be and is hereby authorized to pave with Belgian block pavement, or of any other durable material, any street or streets, or portion thereof, and to provide for the payment of the costs and expenses of such improvement in manner hereinafter prescribed.

Proceedings for paving streets.

680. SEC. 2. That whenever there shall be presented to the common council or other legislative body of any city a petition signed by the owners of at least three-fifths of the lands and real estate fronting or bordering on any street or streets or portion thereof in such city not being less than two hundred yards in length, praying the common council or other legislative body to cause such street or streets or portion thereof to be improved under this act, the common council or other legislative body of said city may, by ordinance passed in accordance with existing charter provisions, designate the street or streets, or portion thereof, to be paved, the extent of the same and the material to be used, which ordinance shall be published as prescribed by any existing law; such ordinance shall then be referred to the commissioners of assessments, or other proper officers of said city qualified by law to make assessments, who shall examine into the whole matter impartially, and to the best of their skill, judgment and ability, and who shall cause a survey and preliminary map to be made of said improvement, distinguishing each lot or parcel of land and real estate benefited by said improvement by number on said map, and they shall estimate the

Survey and map of improvement shall be made.

Costs and expenses shall be estimated and assessed according to benefits.

costs and expenses of such improvement according to the best of their judgment, and they shall assess such proportion of such costs and expenses as will be equal to the amount of benefits actually acquired by said lands and real estate from such improvement, proportioned equitably to the benefit each of said tracts or lots shall be deemed to acquire, and report the names of the owners of said lands and real estate, as far as practicable, with the amounts assessed to each, and shall file said report and map with the clerk of said city within forty days after such reference of said ordinance; the clerk shall give notice of any such report and map within ten days after the same shall be filed with him, in two official newspapers circulating in said city, and by five notices put up on the line of said improvement; and the common council or other legislative body of said city shall proceed forthwith to carry out said improvement, and may refer back said report and map to said commissioners of assessments, or other legally-qualified officers, for alterations or corrections in matters of form and substance when they deem the same necessary.

Report and map shall be filed and advertised.

Benefits to be assessed.

681. SEC. 3. That such proportion of all such costs and expenses of such improvement as will be equal to the amount of benefits actually acquired by said lands and real estate from such improvement, proportioned equitably to the benefit each of such tracts or lots shall be deemed to acquire, shall be assessed by the commissioners of assessments or other legally-qualified officers, upon and paid by said lands and real estate, and the said commissioners or other legally-qualified officers shall determine and report in writing to the said common council or other legislative body what proportion of such costs and expenses shall be assessed upon each separate lot or parcel of land, and shall accompany said report with a final map containing and delineating each lot assessed and the name of the owner or owners thereof, if practicable, which report and map shall be filed in the office of the city clerk, whereupon said clerk shall cause to be inserted in two newspapers circulating in said city, for at least two weeks successively, once a week, a notice of filing said report, and the city clerk shall mail a written or printed notice to each of the known owners of land to be assessed therefor, and he shall also put up five notices on the line of said improvement in said city, that the common council or other legislative body of said city, or a committee thereof, will meet at a time and place to be designated in said notice, to be at least ten days from the date of filing of said report, to consider said assessment, and to receive and consider all objections thereto which may be presented in writing; and the said common council or other legislative body shall have power to return said map and report for correction in matters of form and substance before confirming the same, and they shall refile it with the city clerk within ten days after it shall have been so referred back to them; and if the said common council or other legislative body shall, by resolution, confirm said assessment, but no such report or assessment shall be confirmed until the said improvement has been completed to the satisfaction of the said common council or other legislative body, and shall have by resolution approved the same, the said common council or other legislative body shall thereupon cause a certified copy of such report and the accompanying map to be forthwith delivered to the officer of such city charged with the duty of collecting taxes, who shall record the same in a book to be provided for that purpose at the expense of such city, and which shall be open to public inspection at all proper times; and such assessment shall, from the time of filing such transcript thereof, be a lien upon the lands and real estate therein mentioned paramount to any mortgage or other incumbrance previously existing, and notwithstanding alienation or transmission of title to said premises by the owner thereof.

Proceedings thereon.

Assessment shall be first lien.

Notice of assessment, how given.

682. SEC. 4. That the said officer having in charge the collection of taxes, upon receiving the said transcript of said report and map, shall immediately give notice thereof by mail to each person against whom there shall be any such assessment, if his address can be ascertained, and by publishing the same in two newspapers circulating in the said city and published in the county wherein said city shall be situated, for two weeks

successively, once a week, which notice shall require payment of the amounts assessed by the owners of said land respectively, to be made to said collecting officer, the one-half thereof within sixty days after the date of the first publication of the said notice, and the remaining one-half thereof within ninety days after the date of said first publication.

Collection of assessments, how enforced.

683. SEC. 5. That if any such assessment shall not be paid within said term of ninety days from the said date of first publication, the said collecting officer shall proceed to collect the same, together with interest on said assessment at the rate of six per centum per annum from and after ninety days from the said date of first publication and the expenses of sale, by selling the said lands affected thereby for the like term, upon the like advertisement and with the like effect as in case of sales for taxes in said city.

Governing body may issue bonds in anticipation of assessments.

684. SEC. 6. That the said common council or other legislative body shall have power to issue bonds bearing interest at not more than six per centum per annum in anticipation of the payment of the assessments, and when such assessments are paid they shall be credited to the street improvement account in any city where such an account exists, or other proper account, and where such accounts do not exist then and in that case such assessments, when so paid, shall be held inviolable for the payment of the bonds mentioned in this section.

May issue bonds to pay balance of cost and expense.

685. SEC. 7. That the balance of such costs and expenses of such improvement, if any remaining unassessed, shall be a debt upon and paid by the city in manner following: the common council or other legislative body of said city may issue bonds of the said city to the amount of the balance of the costs and expenses of said improvement, which bonds shall be made payable at periods of time not exceeding thirty years from the date of issuing the same, and shall draw such rate of interest, not exceeding six per centum per annum, and to be issued in such sums as the common council or other legislative body of any such city shall by ordinance or resolution determine, which bonds shall be of the denomination of not less than fifty dollars nor more than one thousand dollars, and shall be executed under the corporate seal of said city and the signature of the mayor or other proper financial officer or officers of said city; the bonds issued by virtue of this section of this act shall be called road construction bonds, and shall have coupons attached for every half year's interest until due, or may be registered, at the option of the holder, which coupons, if attached, shall be signed by the said mayor or other proper financial officer or officers of said city and numbered to correspond with the bond to which they shall be respectively attached, and all the bonds issued under this section of this act shall be numbered and a register of such numbers, the date of issuing and the time of payment shall be made by the said mayor or the proper financial officer or officers of said city in the book to be provided for that purpose, which bonds shall be received by the city authorities for their face value and accrued interest in payment of any assessment imposed for the same improvement; *provided*, that in order to redeem the bonds issued under the provisions of this section of this act at maturity it shall be the duty of the common council or other legislative body of said city to establish a sinking fund, which shall be created by a special tax of not less than one and one-half per centum per annum on the issue of bonds herein provided for in this section, to be raised in the annual tax levy.

Conditions of bonds.

Proviso.

Interest on bonds shall be raised by special tax.

686. SEC. 8. That the interest on the bonds authorized to be issued under this act shall be raised by a special tax annually levied and collected as other city taxes are now or may be hereafter levied and collected, and the whole of each year's interest shall be so raised, levied, collected and paid within each year, and the common council or other legislative body of said city may dispose of said bonds at either public or private sale for the best price that can be obtained for the same, but not at a less price than par value, and all moneys derived from the sale of said bonds shall be inviolably applied and used for purposes connected with said improvement.

Bonds shall not be sold at less than par.

An act concerning cities.

P. L. 1895, p. 619.

Approved March 22, 1895.

City council in certain cases may take and accept land for altering and widening streets.

687. SEC. 1. That it shall be lawful for the city council of any city in this state whose charter and no general law applicable thereto does not provide for the alteration or widening of streets, upon the written request of the majority of the properties fronting on any street or any square proposed to be altered or widened, by ordinance to alter or widen any street or alley already laid out and opened within said city and to take and appropriate for such purposes any lands and real estate upon making compensation to the owner or owners thereof, as is hereinafter mentioned and provided; and they may, at their discretion, by ordinance, accept such lands as may be dedicated by the owner thereof as public streets or alleys, and thereupon shall be bound to keep up, repair and maintain the same to the same extent that they may be bound to keep up, repair and maintain streets or alleys laid out by other legal proceedings.

Shall make compensation therefor.

688. SEC. 2. That whenever the city council shall determine, by ordinance, as aforesaid, to alter or widen any street or alley, or any part of a street or alley, and to take and appropriate for such purpose any lands or real estate, they are hereby authorized to treat with the owner or owners thereof, and make such compensation therefor as they shall judge reasonable, and thereupon shall receive from such owner or owners a conveyance of such lands and real estate to the city, and such compensation shall constitute a part of the whole amount of costs, damages and expenses to be assessed under and in pursuance of the provisions contained in this act.

In certain cases assessors may estimate and assess damages.

689. SEC. 3. That when the said city council cannot agree with the owner or owners of such required lands or other real estate for the same, or when by reason of the legal incapacity or absence of any such owner or owners no such agreement can be made, it shall be lawful for the board of city assessors, and they are hereby required, upon application in writing of the said city council, signed by their presiding officer, which application shall specify the improvement and the land or other real estate, with the appurtenances intended to be taken for such purpose, to make an estimate and assessment of the damage that any such owner or owners will sustain thereby, and in estimating and assessing such damages the said board of assessors shall have due regard as well to the value of the land or other real estate, with the appurtenances, as to the injury or benefit of the owner or owners by the making thereof, and it shall be the duty of the said board of assessors, after estimating said damages, to assess the amount thereof, including the sums which may have been agreed upon as the price of any of the lands or other real estate to be taken for such purpose; where agreement has been made with the owner or owners, and also the costs and expenses incurred, upon all the owners of land and real estate in such city peculiarly benefited thereby in proportion as nearly as may be to the advantage each shall be deemed to acquire, specifying in such assessment such lots or subdivisions of lots, designating the lots and subdivisions of land so benefited by the letters and numbers by which they are distinguished on the city atlas, together with the name of the respective owner or owners thereof, and the amount assessed on each lot, which said assessment shall be embraced in the report of the said board of assessors hereinafter directed to be made; and in case where the city council shall agree with the owner or owners of such lands as to the compensation therefor the board of city assessors shall make their estimate for damages in accordance therewith.

Amount of assessments and agreements to be assessed upon the property.

How the estimate and assessment shall be made and reported.

690. SEC. 4. That in making every assessment required to be made by the provisions of this act when any land or real estate is taken or condemned, the said board of assessors shall first estimate and assess in the manner herein required, the damages sustained by the owner or owners of the lands and real estate taken therefor; and after having ascertained the amount of such damages they shall declare in their report thereof the cost and expense incurred, which shall include the damages awarded, and they shall thereupon at once proceed to make an estimate and assessment of the

benefits conferred by the said improvement, as required herein, and they are hereby authorized to declare the damages awarded and benefits assessed in one report, or they may make their report of the damages and benefits separately, as they may deem best.

Report, when ratified, shall be binding.

691. SEC. 5. That after the filing of any such report, the same shall be at the next meeting of the city council presented by the city clerk, and the same being ratified by the city council shall be binding and conclusive upon the owner or owners of any such lands and real estate; and the lands condemned for any such improvement shall thereupon be and become the property of the city for the purposes for which the same are condemned; *provided, however*, that any person or persons conceiving himself, herself or themselves aggrieved by the proceedings of the said city council or of the said board of assessors in making an estimate and assessment of damages may appeal therefrom to the supreme court of this state within thirty days after the time of the making of the final order of the city council confirming the said report; and the supreme court shall order a trial by jury to assess the damages sustained by the aggrieved party, the trial whereof shall be conducted as in other cases of trial by jury; and the said court shall have power to order an issue framed and proper proceedings to be had for this purpose.

Proviso.

Damages awarded may be sued for.

692. SEC. 6. That in case of non-payment on demand of any damages estimated and assessed as aforesaid, with interest, from the date of the confirmation of such assessment, in case of no appeal to the supreme court as aforesaid, the person or persons entitled thereto may sue for and recover the same from the said city in an action of debt, with costs, in any court having cognizance thereof; and the said proceedings of the said commissioners and the city council or the award of the said jury, as the case may be, shall be conclusive evidence against the defendant; *provided, however*, that where benefits for any such improvement have been assessed against any person or persons entitled to any award of damages, no recovery shall be had of the damages awarded until such benefits have been paid, and it shall be lawful for the said city to offset the benefits so ascertained against the damages so awarded; and if in any case the damages awarded exceed the benefits assessed the balance only shall be recovered; if the benefits assessed exceed the damages awarded, then the excess may be collected in the manner hereinafter provided.

Proviso.

Payment of damages, how made and effect of.

693. SEC. 7. That the city treasurer shall, under the directions of the city council, tender and pay the owner or owners of such land and real estate, if resident in the said city, the amount of such estimate and assessment of damages due him or them, and if any such owner is not resident in said city, or on due inquiry cannot be found therein, or is a lunatic or idiot or under age, or if for any other lawful cause is incapacitated to receive the same, or if such owner will not receive the same and sign a proper voucher therefor when tendered, then the said treasurer shall make affidavit of such fact and file the same with the city clerk; and the city council shall thereupon direct the amount of such assessment so due as aforesaid to be placed in the city treasury for the use of the person or persons to whom it may [be] due; and the said moneys so placed in the city treasury shall be paid by such city to the person or persons entitled thereto on demand, but without interest, except from the time demand is made and payment after demand refused.

Proceedings on assessing benefits, &c.

694. SEC. 8. That before making any assessment for benefits against any owner or owners of lands and real estate benefited, the said board of assessors shall give notice in the manner hereinbefore directed of the time and place where and when they will meet for the purpose of considering the same, at which time and place all persons interested therein may be heard, and the said board may adjourn such hearing from time to time until they have completed the consideration thereof and made report thereon as herein directed; and any person who may deem himself aggrieved thereby may present his objections to any such report to the city council of said city at its next stated meeting after the filing of such report; and if the said city council shall refuse to ratify the same it shall be returned by the said

Objections to report may be filed.

city council to the said board of assessors for further consideration, and so from time to time until such report shall be duly ratified and confirmed.

Assessments to be a first lien, &c.

695. SEC. 9. That upon the ratification of any such assessment of benefits the report thereof shall be transmitted immediately to the officer charged by law with the collection of taxes, and it shall be the duty of such officer thereupon to give notice, in two of the newspapers published in said city, that such assessments have been duly returned to him for collection; all such assessments shall draw interest from the date of confirmation, at the rate of seven per centum per annum, and, with the costs of collection, shall be and become, from the date of confirmation, a first and paramount lien upon the lands and real estate so assessed, which lien shall remain until such assessment is paid.

Notice of assessment to be served on persons assessed.

696. SEC. 10. That it shall be the duty of the collector of taxes to whom any such assessment shall have been returned, in addition to the publication of the return thereof to him for collection as herein provided, as far as practicable, to cause a notice to be given to every person assessed of the amount of assessment so made against him or her, with the costs which have been incurred in the collection of the same and the interest which has accrued thereon; but if, for any reason, such notice is not given to or received by the person or persons assessed, it shall in no way impair the right of the city to collect the assessment so made; in all cases in which assessments so made and returned shall remain unpaid for the space of six months from the date of confirmation, it shall be lawful to collect the same by a sale of the property assessed, and it shall be the duty of the said collector within one year after any such assessment shall have been returned to him, to make sale thereof as herein directed; he shall, before making such sale, make advertisement thereof in two of the newspapers published in said city for the space of four weeks, at least once each week, giving notice of the time and place of sale, together with a description of the lot or tract of land assessed by the letter or number by which it is designated on the city atlas, and specifying the amount of money assessed, laid out and expended on the same; and he shall at the time and place so designated sell the said land and real estate, at public sale, for the lowest term of years at which any person will agree to take the same, not exceeding fifty years, and pay the assessment, with interest thereon, and all other expenses incurred subsequent to the confirmation thereof; and thereupon the mayor of the said city, at the request of the city council, and under its corporate seal, shall make, execute and deliver a declaration of sale to the purchaser thereof, and such purchaser, his executors, administrators or assigns, by virtue thereof and under the authority of this act, shall lawfully hold and enjoy the said lands and real estate, for his and their own proper use, until said term shall be fully completed and ended; and they shall be at liberty to remove therefrom all buildings and improvements they shall erect or place thereon during the said term, and every such purchaser, his heirs and assigns, shall pay all taxes which shall be lawfully assessed against the said lands and real estate during the said term; *provided, however*, that if the owner of any such lands and real estate, or any person having an estate therein, or any mortgagee thereof, shall, within six months after such sale, pay to the purchaser, his executors, administrators or assigns, the amount of money so paid by him to said city, with the amount paid for any improvements made thereon, and all taxes paid by such purchaser, with interest at the rate of twelve per centum per annum, such owner, or person having an estate therein, or mortgagee, as the case may be, shall be entitled to re-enter and repossess the said lands and real estate, and hold the same and have such rights therein as if the said sale had not been made.

Failure to give notice shall not invalidate assessments.

Property may be sold for assessments.

Sales shall be advertised.

Terms and conditions of sales.

Proviso.

How assessments for special benefits shall be paid.

697. SEC. 11. That it shall be lawful for the city council in every case to cause so much of the cost, damage and expense of any public improvement authorized by and made under the authority of this act, as represents the special and peculiar benefit conferred upon the owners of land and real estate benefited thereby, to be assessed thereon in the manner herein pro-

vided, in proportion to the benefit each shall be deemed to receive, the balance of such cost, damage and expense to be imposed upon and borne by the city and provided for by general taxation; or the said city council may, at its option, provide that the entire expense of any such improvement shall be borne by the city at large and shall have power, within the limitations herein imposed, to provide therefor by taxation.

Assessments shall be made on lots as recorded in city atlas.

698. SEC. 12. That all assessments upon lot-owners in said city, which may be made for any purpose authorized by this act, or to be authorized by law, shall be made upon the lots or subdivisions of lots as they stand recorded on the city atlas; and in advertising the same for such assessment or for taxes, or in entering liens thereon, it shall be sufficient to describe said lot or subdivisions of lots by the letters and numbers and streets by which they are distinguished on the city atlas, together with the name or names of the owner or owners thereof, as the same appears in the register by the city surveyor; if in any case the name of the owner or owners is unknown, and cannot be ascertained, such assessments may be made against the lots as so designated, with the declaration that the owner's name is unknown.

When assessment has been set aside new assessment shall be made.

699. SEC. 13. That whenever, by the judgment of any court wherein any certiorari has been, is or may be brought, or any assessment made under the provisions of this act has been or is set aside or reversed for irregularity or informality in such assessment, it shall be lawful for the city council to cause a new assessment to be made of so much of the amount of the original assessment as may be set aside, or of the amount thereof still remaining unpaid, to become a lien as of the date of the confirmation of the original assessment and to be proceeded with in all respects in conformity with the provisions of this act and the laws relating thereto.

Council may re-institute proceedings when assessment is set aside.

700. SEC. 14. That whenever, by reason of any informality or illegality in any proceedings of the said city council or of the board of city assessors, surveyor or other agent of the city council or official of the city, in altering or widening a street or alley, any assessment shall be set aside by judicial authority, it shall be lawful for the city council to re-institute the proceedings set aside, upon the same basis upon which the original proceedings were based, or otherwise if they see fit so to do, and lawfully proceed therein the same as though the former proceedings had not been had, or the said city council may re-institute said proceedings from the point where such informality or illegality may have been so decreed, and whenever the city council shall discover that any such proceedings are liable to be set aside by judicial authority, they may re-institute said proceedings from the point where such informality or illegality commences, and no assessment shall be deemed invalid in consequence thereof, but no writ of certiorari shall be allowed or issue to remove any assessment made upon the owner or owners of lands or real estate for any work or improvement made or to be made, unless the same be applied for within sixty days after the confirmation of such assessment by the city council of such city.

Assessor interested not competent to act.

701. SEC. 15. That whenever any public improvement shall be made, or ordered to be made, under the provisions of this act, and the expense thereof ordered to be assessed by the board of city assessors, and any member of the board of city assessors shall be interested in said improvement, either as an owner of property to be taken or to be assessed, or in any other way, except merely as a taxpayer in said city, such assessor shall not be deemed competent to assist in making the assessment connected with such improvement, but the city council shall, by a majority vote of all its members, elect some disinterested resident in said city to act with the remaining members of the board of assessors in making said assessments; such person, before entering upon his said duties, shall take and subscribe an oath or affirmation before the city clerk, to be filed by him, faithfully and honestly to perform said duties; no report of assessment shall be considered illegal in consequence of the incompetency of any of the persons making such report, if a majority of the persons making such

A majority of competent assessors may make report.

assessments were competent and disinterested; and it shall be lawful for the city council to make such reasonable compensation for the service of any person so appointed to fill such vacancy as it may determine.

An act concerning cities.

P. L. 1895, p. 641.

Approved March 22, 1895.

Council and railroad company may agree upon proportion of expense for improving street.

702. SEC. 1. That in any city of this state where a railroad company occupies and uses a part of any street for the purpose of local passenger traffic, and a part of the terms of such use by an agreement between said city by its authorities and said railroad company is the keeping of said street in repair by such company, and it is desired that said street shall be permanently improved by paving or otherwise, it shall be lawful for the city council of said city and said railroad company to agree upon the proportion of the cost and expense of making such improvement that shall be borne by said railroad company.

Council shall provide for improvements.

703. SEC. 2. That upon the making of such agreement between and by any city council and railroad company as aforesaid, it shall be lawful for the city council to pass an ordinance providing for the paving or otherwise permanently improving such street in the manner agreed upon, and for this purpose the council shall have power to make necessary changes in the grade of said street; to contract for the making of said improvement, and do all and every act and thing necessary for the prompt completion of said improvement.

Benefits to be assessed.

704. SEC. 3. That it shall be lawful for the city council in every such case to cause so much of the cost, damage and expense of any public improvement made under the authority of this act as represents the special and peculiar benefit conferred upon the owners of land and real estate benefited thereby, to be assessed on such land and real estate in the manner provided in this act in proportion to the benefit each shall be deemed to acquire; but said council may determine in the ordinance authorized by this act to credit against assessments for benefits to the several owners of land and real estate peculiarly benefited by said improvement, such percentage, if any, of the amount to be paid by the railroad company as its proportion of the cost of such improvement as council may deem equitable and just; the balance of cost, damage and expenses remaining unprovided for, to be imposed upon and borne by the city at large and provided for by general taxation; or such council may, at its option, provide that the entire expense of any such improvement, other than the proportion paid by the railroad company, shall be borne by the city at large and shall have power to provide therefor by taxation.

Balance of entire cost except that paid by railroad shall be paid by taxation.

Council may borrow money.

705. SEC. 4. That it shall be lawful for said council to negotiate temporary loans for a period not to exceed two years, for so much of the expense of such improvement as shall be assessed for benefits, less the amount, if any, accredited as aforesaid against the property peculiarly benefited, which loans shall be paid and retired when the money so assessed is collected.

Bonds may be issued.

706. SEC. 5. That such city council may issue bonds of said city for such proportion of the cost, expense and damage of such improvement as it is determined shall be borne by the city at large, for any period said council shall determine, not exceeding seven years, to bear interest at a rate not to exceed five per centum per annum, payable semi-annually.

Requisites of proper assessment.

707. SEC. 6. That when said city council shall determine as aforesaid to assess such amount of the costs and expenses of any such improvement upon the owners of property benefited thereby to the extent that the same shall acquire special and peculiar benefit, the said council shall at the completion of said work or at such time as it shall by resolution determine during the progress thereof, make application in writing signed by the presiding officer of such council, to the board of city assessors, which application shall specify the street or part of street along which such assessment for benefits is to be made, in proportion as nearly as may be to the advantage each owner of such land and real estate shall be deemed to acquire,

and directing said board of assessors to specify in their assessment such lots or subdivision of lots, designating the lots and subdivision of land so benefited by the letters and numbers by which they are distinguished on the city atlas, and in case they are not so distinguished on said atlas to designate them by some other specific and certain method, together with the name of the respective owner or owners thereof and the amount assessed on each lot, and it shall be the duty of said board of assessors thereupon to make such assessment, which said assessment shall be embraced in the report of said board of assessors which shall be made to the city council immediately upon the completion of such assessment, and council shall ratify and confirm said assessments or refer back to said board of assessors such as it refuses to ratify, for further consideration, and so on from time to time until all such assessments shall be ratified and confirmed.

Assessment shall be embraced in report to council.

708. SEC. 7. That at least five days before making any assessment for benefits against any owner or owners of land or real estate benefited, the said board of assessors shall give notice in at least three of the newspapers of such city of the time and place when and where they will meet for the purpose of considering the same, at which time and place all persons interested therein may be heard, and the said board may adjourn such hearing from time to time until they have completed the consideration thereof and made report thereon as herein directed; and any person who may deem himself aggrieved thereby may present his objections to any such report to the city council of said city at its next stated meeting after the filing of such report, and if the said city council shall refuse to ratify the same it shall be returned by the said city council to the said board of assessors for further consideration, and so from time to time until such report shall be duly ratified and confirmed.

Proceedings of board of assessors.

Persons aggrieved may present objections to report.

709. SEC. 8. That upon the ratification of any such assessment of benefits, the report thereof shall be transmitted immediately to the officer charged by law with the collection of taxes; and it shall be the duty of such officer thereupon to give notice in two of the newspapers published in the said city that such assessment has been duly returned to him for collection; all such assessments shall draw interest from the date of confirmation at the rate of seven per centum per annum, and with the cost of collection shall be and become a first and paramount lien upon the lands and real estate so assessed, which lien shall remain until such assessment is paid.

Notice of assessments to be given by publication.

710. SEC. 9. That it shall be the duty of the collector of taxes to whom any such assessment shall have been returned, in addition to the publication of the return thereof to him for collection as herein provided as far as practicable, to cause a notice to be given to every person assessed, of the amount of the assessment so made against him or her, with the costs which have been incurred in the collection of the same and the interest which has accrued thereon, but if for any reason such notice has not been given or received by the person or persons assessed it shall in no way impair the right of the city to collect the assessment so made; in all cases in which assessments so made and returned shall remain unpaid for the space of six months from the date of confirmation it shall be lawful to collect the same by a sale of the property assessed, and it shall be the duty of said collector within one year after any such assessment shall have been returned to him to make sale thereof as herein directed; he shall before making such sale make advertisement thereof in two of the newspapers published in said city for the space of four weeks, at least once each week, giving notice of the time and place of sale, together with a description of the lot or tract of land assessed by the letter or number by which it is designated on the city atlas, or if not so designated, by some other definite and certain description and specifying the amount of money so assessed against and laid out and expended on the same; and he shall at the time and place so designated sell the said land and real estate at public sale for the shortest term of years at which any person will agree to take the same, not exceeding fifty years, and pay the assessment with interest thereon

Collection of assessments, how enforced.

Property may be sold for assessments.

and all expenses incurred subsequent to the confirmation thereof, and thereupon the mayor of said city, at the request of the city council and under the corporate seal of the city, shall make, execute and deliver a declaration of sale to the purchaser thereof, and such purchaser, his executors, administrators or assigns, by virtue thereof and under the authority of this act, shall lawfully hold and enjoy the said lands and real estate for his and their own proper use until said term shall be fully completed and ended; and they shall be at liberty to remove therefrom all buildings and improvements they shall erect or place thereon during the said term, and every such purchaser, his heirs and assigns, shall pay all taxes which shall be lawfully assessed against the said lands and real estate during the said term; *provided*, *however*, that if the owner of any such lands and real estate, or any person having an estate therein, or any mortgagee thereof, shall within six months after such sale pay to the purchaser, his executors, administrators or assigns, the amount of money so paid by him to said city, with the amount paid for any improvement thereon, and all taxes paid by such purchaser with interest at the rate of twelve per centum per annum, such owner or person having an estate therein or mortgage thereon, as the case may be, shall be entitled to re-enter and repossess the said lands and real estate and hold the same and have such rights therein as if the said sale had not been made; no proceeding under this act shall be held invalid for any informality in proceedings thereunder.

Council shall make conveyance.

Proviso.

Mortgagee may recover possession on payment of money paid.

(*b*) *Of sewers only.*

An act respecting assessments for constructing sewers or continuations of sewers running through adjoining cities.

P. L. 1878, p. 344.

Approved April 5, 1878.

Assessments for costs and expenses of sewer running through two adjoining cities.

711. SEC. 1. That hereafter in assessing the costs and expenses incurred in the construction of any sewer or continuation of any sewer running through two adjoining cities in this state, and which may have been or may hereafter be built and constructed under the direction of commissioners appointed for that purpose under and pursuant to the provisions of any law of this state, the commissioners, freeholders, city surveyor, or other person or persons appointed or to be appointed under any law, and who are or may be authorized by law to make an assessment for such improvements, shall, in all such cases in and for which such commissioners of assessments, freeholders, city surveyor, or other person or persons are or may be lawfully appointed to make assessments, assess the costs and expenses of such sewer or continuation of such sewer or sewer improvements, upon the land and real estate benefited by such improvement and in proportion to the benefits thereby received; in making which said assessments hereby authorized for such sewer improvements in any cities of this state, the same shall be made and assessed upon the several lots or parcels of land benefited by such improvement in proportion to the benefit received by each one of said lots or parcels of land, and no lot or parcel of land shall be assessed more than it is benefited; *provided*, that if the total cost and expense of such improvement exceeds the aggregate amount of assessable benefits, then only so much of said cost and expense as equals the aggregate amount of such benefits shall be so assessed, and the remainder of such cost and expense shall be borne by the cities at large in which such sewer or continuation of such sewer may be built, one-half of which remainder shall be borne and paid by each of such cities, and the same shall be assessed, levied and raised by general taxation upon all the taxable property in such cities respectively, in the same manner that taxes in such cities respectively for other city purposes are assessed, levied, raised and collected. (*a*)

Proviso.

(*a*) This act is a general law, applicable to all adjoining cities, and to all assessments for the construction or continuation of sewers which have been or may hereafter be built. It provides that the excess of the costs of the work over and above the benefits assessed shall be paid equally by the two cities. The classification is a proper one for the purpose which this legislation has in view. The law applies to the entire class, and could not be made more general in its operation. *Green* v. *Hotaling*, 15 *Vr.* 348; affirmed, 17 *Vr.* 207. Property owned by a municipal corporation and used for public purposes, is not subject to assessment for benefits for such improvements, in the absence of language in the statute indicating an intention to tax it. *Ib.* See *Fitzgerald* v. *New Brunswick*, 18 *Vr.* 488. *Jelliff* v. *Newark*, 19 *Vr.* 107.

712. SEC. 2. That all general, public, special and local acts inconsistent with this act be and the same are hereby repealed, and that this act shall be a general public act and shall take effect immediately.. Repealer.

An act granting to cities an unobstructed outlet to the culverts in their streets.

Approved March 12, 1880. P. L. 1880, p. 277.

713. SEC. 1. That from and after the passage and approval of this act, every incorporated city in this state having streets containing culverts or other drains to tide-water, shall upon public dedication, after the usual form of condemnation and assessment of private property, have full and unobstructed outlet for the culverts in such streets to any contiguous streams without amenability to the claims to said water-front of the riparian commission or any laws or usages thereof. Cities to have unobstructed outlet for culverts, notwithstanding rights of riparian commissioners, &c.

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

An act to authorize cities to construct sewers and drains and to provide for the payment of the cost thereof.

605–715
39v–693
s04–217

Approved March 8, 1882. P. L. 1882, p. 60.

715. SEC. 1. That it shall be lawful for the board of aldermen of any city in this state to order and cause sewers or drains to be constructed in any part of such city, and to provide, maintain and alter a general system of sewerage and drainage for such city, 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 city for sewerage or drainage, and to provide for the disposal of sewage and drainage from the city, and to repair and cleanse such sewers and drains. (*a*) General system of sewerage and drainage authorized.

605–715
S97–25
S97–228
S98–340
S99–224
A01–77
S02–343
34V–532

605–715
S03–58

716. SEC. 2. [Subdivision I. of this section is amended by Sec. 723, *post*.]

II. If, in the judgment of the said board of aldermen, the construction of such sewer or drain is likely to benefit and increase the value of any lands and real estate in the vicinity thereof, the said board shall apply to the circuit court of the county wherein such city 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 or circulating in such city, 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 the city making the application, to estimate and assess the said benefits; 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 in the office of any commissioner from any cause ; Circuit court may appoint commissioners to assess benefits, &c.

III. 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 ; Commissioners to take and subscribe oath.

IV. The said commissioners, having thus qualified, shall give notice, under the direction of the said court, 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 Commissioners to give notice of time and place to hear persons interested.

(*a*) This act and the act of 1887 (P. L. 1887, p. 231, §§ 1094-1097, *post*) are general acts which supersede the provisions of city charters on the same subject. The two above-stated acts provide the only legal mode in which cities can construct sewers and drains and assess for their cost. *Post* v. *Passaic*, 27 *Vr.* 421. After the work is done in pursuance of an ordinance under the provisions of a city charter, the ordinance will not be set aside, but if the assessment is speedily challenged, that will be set aside, that it may be made in accordance with the acts of 1882 and 1887. *Ib.* A drain for surface-water only must be assessed under above act of 1882. *Ib.*

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 said court; they shall use diligent efforts 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 so 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;

Examine witnesses, view premises, &c.

Commissioners to make report of estimates and assessments, &c.

V. 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 said court, accompanied by a survey and map, prepared by the city surveyor or engineer, under their direction, 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, the portion, if any, assessed upon the city at large, and shall give the names, so far as ascertained, of the owners of the 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 said benefits, the excess thereof shall be paid by the city at large and raised by general tax; in no case shall any property or owner thereof be assessed beyond the amount of benefit actually derived from the construction of such sewer or drain;

Court to give notice of hearing of objections to assessments and report.

606-VI
A03-704

VI. Upon the coming in of any such report, signed by the said commissioners, or any two of them, 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 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 the said court forthwith, to reconsider the subject-matter thereof, and the said commissioners to whom such report shall be so 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 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 city 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 transmitted to the city clerk of the said city, with a certified copy of the rule or order of said court confirming the same, which shall be forthwith delivered by the said clerk to the officer of such city charged with the duty of collecting assessments for improvements;

Revision of assessments.

Copy of report to be filed with city clerk.

Limitation of proceedings on certiorari, &c.

VII. 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 assessment made by such commissioners, after the lapse of thirty days from the making of the order of the court confirming such assessment; the court shall designate what notice, if any, shall be given, by publication or otherwise, of the confirmation of the report of said commissioners;

Assessments made to be first lien on lands affected.

VIII. All assessments made under the provisions of this act shall be and remain a first lien upon the lands and real estate affected thereby, notwith-

standing any error or omission in stating the name or names of the owner or owners of any lot or parcel of such land 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 the same rate of interest as other assessments for improvements made under the laws governing such cities, and shall be collected in the same manner that assessments are now collected under such laws; and in case of the non-payment of such assessments the lands and real estate assessed therefor may be sold in the same manner provided for the sale of lands for the non-payment of assessments made under such laws;

Lands may be sold.

IX. The board of aldermen 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 board may prescribe; said certificates shall bear interest at a rate not exceeding six per centum per annum, to be fixed by the board, and shall be payable at the expiration of not more than three years from the date of their issue;

Expenses of improvement may be paid by issuing temporary improvement certificates.

X. It shall be the duty of the board of aldermen to incorporate in the annual tax levy, in each year, such amount as shall be required to be paid by such city at large 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 tax; and the moneys received for assessments, and the moneys so raised by general tax for the purpose aforesaid, shall be reserved for and exclusively applied to the payment for such improvement, or to the payment of any temporary indebtedness incurred by the city therefor [see Sec. 372, *post.*];

Amount to be paid by city at large to be incorporated in annual tax levy.

XI. The following fees shall be allowed for services under this act:

Fees for services under this act.

To the justice of the supreme court: for the appointment of the said commissioners, five dollars; for the hearing of objections to the report and any other hearing required by this act, five dollars for every day he shall sit to hear the same; for the confirmation of any such report, five dollars; *provided*, that no fees shall be allowed to any such justice receiving a salary in lieu of all fees;

Proviso.

To each commissioner: five dollars for every day he shall be actually engaged in the performance of the duties herein required of him;

The foregoing fees shall be paid by the city in which the improvement is made.

717. SEC. 3. That the term "board of aldermen," when used in this act, shall be held to include the common council or other municipal body now charged by law with the construction of sewers in any of the cities of this state; and the term "sewer" or "drain" shall be held to include catch basins, receiving basins and all the other appurtenances of sewers or drains.

Construction of certain words.

Supplement.

Passed March 23, 1886. P. L. 1886, p. 119.

718. SEC. 1. That where any improvements have been made or may hereafter be made under the authority of the act to which this is a supplement, and temporary certificates or bonds have been issued to provide for the cost thereof, as provided in said act, it shall and may be lawful to refund the principal of the said temporary loans by issuing permanent bonds, to run for a period of ten years, of such denomination and bearing interest at a rate not exceeding six per centum per annum, and payable at such place as the common council or other governing body of the city may determine, which bonds may be negotiated and sold for any sum not less than par, and the proceeds shall be used to take up and pay off such temporary certificates or bonds, and for no other purpose.

Temporary certificates or bonds may be refunded by issuing of permanent bonds.

719. SEC. 2. That all the receipts from assessments made against property benefited by such improvements shall be collected, and as received be paid over to the commissioners of the sinking fund of the city, if such commissioners exist therein, and if not, shall be set apart for the payment of the interest on such bonds as it accrues, and their payment and redemption when due.

Receipts from assessments to be used for payment of interest and principal of bonds.

If benefits are not sufficient to pay interest and redeem bonds, deficiency to be raised annually by taxation.

720. SEC. 3. That if in case it shall be found that such benefits will not furnish a sufficient fund to meet the interest as it accrues, and redeem and pay said bonds when due, it shall be the duty of the common council or other governing body in such city annually to raise in the tax ordinance such sum as will, in addition to such benefits, be sufficient for this purpose, placing therein an equal sum each year.

Supplement.

P. L. 1886, p. 398.

Passed June 1, 1886.

Benefits of main sewer may be assessed on property adjoining a lateral sewer.

721. SEC. 1. That whenever a main sewer has been or shall hereafter be constructed by the board of aldermen of any city in this state, pursuant to the powers vested in them by virtue of the act to which this is a supplement, and the benefits of such main sewer are extended to other property by the building of lateral sewers or connections, there shall be assessed upon such property such portion of the cost and expense of such main sewer or sewers as will equal the amount of the benefits actually acquired by said property, which assessment may be made in connection with an assessment for such lateral sewers or as an independent assessment.

Board of aldermen may issue bonds to amount required to be paid by cities at large, &c.

722. SEC. 2. That in the place of incorporating in the annual tax levy in each year the amount that shall be required to be paid by any city at large, on account of the construction of any sewer or drain in the next preceding fiscal year, over and above the total amount of the assessment made against the lands and real estate peculiarly benefited, it shall be lawful for the board of aldermen, for the purpose of paying the amount so required to be paid by the city at large, and of providing for the interest on the bonds to be issued, to issue bonds in the corporate name of the city, and pledging for the redemption thereof the faith of said city, under the seal of said city, and attested by the city clerk, of such denomination as to them shall seem fit, bearing interest at a rate not to exceed five per centum per annum, and redeemable in not more than twenty years from date, and to dispose of the same from time to time as may be necessary; *provided, however*, that said bonds shall not be disposed of at less than their par value.

Proviso

Supplement.

P. L. 1887, p. 233.

Approved April 28, 1887.

608-723
35V-549

Upon presentation of petition of owners of property, board of aldermen to adopt resolution of intention to construct sewer or drain.

723. SEC. 1. That the first subdivision of the second section of the act to which this is a supplement be and the same is hereby amended to read as follows:

[That whenever a petition in writing of any owners of property interested shall be presented to the board of aldermen of any city in this state asking for the construction of a sewer or drain in any particular section of said city, it shall be lawful for such board to adopt a resolution declaring its intention to cause such sewer or drain to be constructed, and if it shall be necessary, in the opinion of the board of aldermen, to construct such sewer or drain upon or across any private lands, then it shall also be lawful for said board to include in said resolution a brief description of the proposed location upon private lands of such sewer or drain; and the said board shall forthwith cause public notice of such intention to be given by the city clerk, or other designated officer, in two or more newspapers printed or circulating in such city, for the space of ten days, briefly describing the proposed work, and requesting such persons as may object thereto to present their objections, in writing, at or before the expiration of ten days from the date of such notice, to the officer signing the same; and if persons owning or representing more than one-half of the lineal frontage of land along the street or streets, or part or parts thereof, through which it is proposed to construct any lateral sewer or drain, and of the private lands upon or across which it is proposed to construct the same, 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 board to adopt an ordinance for the construction of such

Owners of more than one-half of lineal frontage objecting, all proceedings shall cease.

sewer or drain, 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.]

Board of aldermen may acquire lands for the construction of sewer or drain.

724. SEC. 2. That whenever any board of aldermen shall have adopted an ordinance for the construction of any sewer or drain upon or across any private lands as aforesaid, it shall be lawful for said board to acquire said lands in the corporate name of the city, in fee-simple, or to acquire any estate less than a fee-simple therein, according as the said board shall deem the interests of the city shall require; the said board are hereby authorized to treat with the owner or owners of such lands for an estate in fee-simple, or for any less estate therein, and to make such compensation therefor as they shall deem reasonable, and thereupon shall receive from such owner or owners a conveyance of such lands or estate therein to the city.

Proceedings in case no agreement can be made with owners of land, &c.

725. SEC. 3. 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 said board 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 city wherein it is proposed to construct such sewer or drain is situate, upon application to said court by said board, 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 ten days in a newspaper published in such city, 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 city 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, 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 city clerk a written appraisement, 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 city clerk shall deliver the said appraisement to said board of aldermen at its next meeting after the same shall be delivered to him, and the said board shall thereupon cause the same to be recorded in the office of the registry of deeds for the county, and may thereupon order the city treasurer, or other proper officer, to make or tender payment of the sums awarded in such appraisement to the respective owners of lands therein mentioned, and after such payment, or tender of payment, the said board, their agents and workmen, shall have power to enter upon and take possession of said lands for the purposes 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 city 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 city 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 city treasury.

Proceedings in case board of aldermen or owners of land are dissatisfied with award of appraisers.

726. SEC. 4. That in case the board of aldermen, 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 after the said award shall be delivered to the said board, 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 city 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 city 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.

Proviso.

Cost of lands acquired to be deemed part of cost of construction of sewer or drain.

727. SEC. 5. That the cost of the lands or estates therein acquired under the provisions of this act shall be deemed and taken to be a part of the cost of constructing such sewer or drain as aforesaid, and that temporary improvement certificates may from time to time be issued for the purpose of raising funds to pay for such lands and estates therein, in the same manner and of the same effect as certificates are authorized to be issued by the act to which this is a supplement for the payment of the work as it progresses.

Construction of "board of aldermen."

728. SEC. 6. That the term "board of aldermen," when used in this act, shall be held to include the common council or other municipal body charged by law for the construction of sewers in any of the cities of this state.

Supplement.

Approved May 7, 1889.

P. L. 1889, p. 379.

Municipal authorities may adopt ordinance for construction of sewer, notwithstanding objection of owners of land.

729. SEC. 1. That whenever objections in writing to the construction of any proposed sewer shall be received in answer to the printed notice of intention to build any such sewer, given pursuant to a resolution of said board, and such objections are from persons owning or representing more than one-half of the lineal frontage of land along the street or streets or part or parts thereof through which it is proposed to construct such sewer, the board of aldermen or other legislative body of any such city may, notwithstanding any such objections, proceed to adopt an ordinance for the construction of such sewer or drain and to award contracts for the construction of the same or any part thereof; *provided, however*, that any such ordinance for the construction of any such sewer or drain shall require for its final passage a vote of not less than four-fifths of the whole number of such board of aldermen or other body.

Proviso.

Repealer.

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

Supplement.

Approved April 7, 1890.

P. L. 1890, p. 213.

When sewer is constructed through private lands assessments may be made thereon.

731. SEC. 1. That where any sewer is constructed through private lands, under the act to which this is a supplement or under any supplement of said act, and such sewer is built in and through a street or streets laid out and shown on maps of the city, but the same or the portion thereof through which the sewer is built on such private lands have not been laid out, used

or dedicated as a public thoroughfare, that the commissioners appointed to estimate and assess the benefits shall make and include in such assessment the benefits conferred by the construction of such sewer on such private lands, which assessment, so far as it relates to such private lands, shall not, however, be a lien thereon, until said street or streets, or avenue through such private lands, or a part of such street or streets, or avenue, shall be opened or dedicated by, or used as a public thoroughfare with the consent of the owner or owners, or until the owner or owners of such private land connect the same, or a part thereof, with such sewer, or until such street or avenue, or part thereof, shall be opened by the authorities of the city according to law, and upon the happening of any or all of the above events, application may be made by the board of aldermen or common council of any city wherein such sewer has been constructed, to the circuit court of the county, of which application the owner or owners of such land shall have ten days' notice by publication in two newspapers printed and circulating in such city, and upon proof made then, or on some adjourned day, to the satisfaction of said court of any of the aforesaid facts, the judge of such court shall certify to the city clerk of such city that the matter has been heard by him, that he is satisfied of the facts, and that from and after the date of such certificate that the said assessments, so far as they relate to the land then in question, shall be and remain a lien on the said lands; and the city clerk shall make and certify to the officer charged with the collection of sewer assessments a copy of the said certificate, and from and thereafter the said assessments shall be payable, and unless paid within sixty days therefrom, interest, as on the other assessments, shall be charged and collected therewith.

Assessments a lien on lands.

732. SEC. 2. That the assessments for benefits conferred, assessed under the act to which this is a supplement and all the supplements thereof, except that on private lands, and particularly provided for in the above section, shall be a lien on the lands assessed from the time the report thereof is confirmed by the court, and shall be due and payable therefrom, and that interest at the rate of seven per centum per annum shall be charged thereon and collected therewith from and after sixty days from the confirmation of the said report.

Interest.

Sewer may be constructed, notwithstanding objection of majority of owners of lineal feet.

733. SEC. 3. That in case the persons owning or representing more than a majority of the lineal frontage along the line of the street or streets, or private lands, through which it is proposed to construct a sewer, object to the construction of the same in the manner prescribed in said act or supplements, the board of aldermen or common council of any city may, notwithstanding such objections, proceed and construct the said sewer under the act to which this is a supplement, or any supplement thereof, including this, and assess the benefits conferred as provided therein; *provided*, the said board of aldermen or common council deem it necessary so to do and the ordinance providing for the construction thereof is adopted by a three-fourths vote of said body.

Proviso.

Repealer.

734. SEC. 4. That all acts so far as they conflict herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved March 11, 1893. P. L. 1893, p. 230.

Preamble.

WHEREAS, After sewers are laid in the streets of cities, such streets are frequently opened and torn up for the purpose of making house connections with such sewers; therefore,

Common council, &c., authorized to make house connections with sewers.

735. SEC. 1. That in all cities in this state where sewers are now being built or hereafter may be built, under and by virtue of the act to which this is a supplement, the common council, board of aldermen or other municipal body charged by law with the construction of sewers in such cities, shall have power and authority to build and construct, at the time of the building of such sewers, house connections from such sewers proper to the curb line of the lots fronting on the street or streets through which such sewer or sewers shall or may be built.

By whom costs of house connections to be paid.

736. SEC. 2. That the costs and expenses of making such house connections shall be charged to and borne by the lots and subdivisions of lots particularly benefited thereby, and shall be assessed against the same at the same time and by the same authority making the assessments for such sewers proper.

Repealer.

737. SEC. 3. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Supplement.

P. L. 1894, p. 68.

Approved April 19, 1894.

Assessments may be paid in ten annual installments.

738. SEC. 1. That whenever the assessments for the construction of sewers and drains as provided for by the act to which this is a supplement, with all costs, interest and charges thereon to date of the final assessment, shall have been made, the owners of lots and parcels of land so assessed may pay the said amount in ten equal yearly payments, with interest thereon from said date, at the rate of six per centum per annum, payable semi-annually; upon failure to make such annual payment or said interest when due, to the treasurer or other collecting officer of any city wherein the same may be due, the whole of such assessment shall become immediately due and payable, and the treasurer or other collecting officer of such city shall proceed to collect such assessments, with interest, costs and charges, in the manner prescribed for past-due assessments for street paving in any such city; *provided*, that this act shall not apply to cities of the first class; *provided, however*, that payments may be made in the manner aforesaid only when so authorized by resolution of the board of aldermen or other governing body in such cities.

Proviso.

An act to authorize the construction of a connecting sewer in cities in certain cases and providing for the payment thereof.

P. L. 1883, p. 25.

Approved February 8, 1883.

City may acquire land for the construction of a connecting sewer.

739. SEC. 1. That any city board having control of the construction of sewers shall have power to take and hold any land or other real estate necessary for the construction of any sewer to be built for the purpose of connecting a sewer now in existence with another, where such connection is necessary or proper to drain either of such sewers into the other, and the drainage can be more advantageously done in that mode; and in case of any disagreement between such board and the owners of any such lands or real estate which said board may deem necessary for such purpose, as to the amount of compensation to be paid to such owner, or in case such owner be an infant, or married woman, or unknown, or insane, or shall be absent from this state, or from any other cause an agreement cannot be reached with such owner or owners, the circuit court in and for the county wherein such sewer or sewers are located shall, on application of either party, nominate and appoint three disinterested parties to examine such property and estimate the value thereof, or damage sustained thereby, and who shall, after reasonable notice to the parties of the time and place where they will be heard in relation to the matter, proceed without delay to make their report thereon, and deliver the same to the court as soon as finished; and whenever such report shall be confirmed by said court aforesaid, said board shall forthwith pay to such owner, or to such person or persons as the court may direct, the sum mentioned in said report in full compensation for the property so required or for the damages sustained, as the case may be, and thereupon the corporate authorities of such city shall become seized in fee of such property so required, and shall be discharged from all claim by reason of such taking or discharge.

Proceedings in case of disagreement.

740. SEC. 2. That the expense of acquiring such land and constructing such connecting sewer shall be assessed upon the land and real estate benefited thereby in proportion to the benefit received, with the provision that if the expenses shall exceed the amount of special benefit in any case, then such excess of expense over benefit shall be paid by the city and raised by tax. Expense, how provided for.

741. SEC. 3. That the board having control of the finances of such city shall have power, at any time, to borrow any money necessary for the purpose of purchasing such land or constructing such sewer, and to issue bonds therefor bearing not exceeding five per centum interest, and running not exceeding ten years, with such other provisions and in such form as such board shall determine to be for the best interests of the city. Authorized to issue bonds.

An act in relation to sewers, portions of which lie in two adjoining cities.

Approved March 23, 1883. P. L. 1883, p. 226.

742. SEC. 1. That whenever any sewer has been or may hereafter be constructed partly in one city and partly in another city, and said sewer, as constructed, shall be insufficient to carry off the sewage discharged or to be discharged through said sewer, it shall be the duty of the city whose sewage is carried or intended to be carried by such sewer to enlarge the same, or to change the course thereof, so as to make a more direct discharge of the sewage therefrom, even though such change may make the outlet of the sewer in a different city from that in which such outlet is now placed, or may have been placed when first constructed; and said city, in changing the route, may replace any part of the sewer, on the new outlet as determined upon, with iron or cement pipes placed above or below the surface of the ground, of sufficient capacity to carry off the sewage; and the authorities of the city making the enlargement or change shall have the power to go into the other city and make such excavations and do such other work, in any of the streets of such other city, as may be necessary to carry out the provisions of this act or increase the efficient working of such sewer; and they shall, after such work, replace the streets in the same condition as they shall have found them; and if at any time thereafter it shall be necessary, they may enter upon said streets to repair or replace said sewer. Proceedings when sewer constructed in adjoining cities is insufficient to carry off sewage.

743. SEC. 2. That the board having the control of the finances of the city doing such work may borrow sufficient money to pay for the same, and place the amount in the next tax levy, and no indebtedness shall be incurred by any board or city official for such purpose without the previous authority of the board having the control of the finances of said city. May borrow money, and place amount in tax levy.

744. SEC. 3. That all acts and parts of acts, general, public, special, local or otherwise, inconsistent herewith, be and the same are hereby repealed, and this act shall take effect immediately. Repealer.

An act concerning cities in this state.

Approved March 23, 1883. P. L. 1883, p. 228.

745. SEC. 1. That all cities in this state in which the legislative or other municipal body has control of the construction of sewers, which the said city has heretofore or may hereafter be indicted for maintaining a nuisance, shall in all cases where the construction of a sewer shall effectively abate said nuisance, proceed to order and cause such sewers to be constructed; the costs and expenses incurred and paid for the construction thereof shall be assessed as the cost of construction of other sewers are now assessed in such city; *provided*, that the costs and expenses shall not, in any one case, exceed the sum of fifty thousand dollars. City may construct a sewer when it has been indicted for maintaining a nuisance. Proviso.

An act concerning the construction of sewers in cities of this state.

P. L. 1884, p. 281.

Approved April 30, 1884.

Petition for construction of sewers to be signed by owners of one-half of lineal frontage only.

746. SEC. 1. That where, in any city in this state, petitions for the construction of sewers are required to be signed by persons owning more than one-half of the lineal frontage of land along streets through which it is proposed to construct sewers, it shall hereafter only be necessary that such petitions be signed by the persons owning at least one-half of the lineal frontage of land along the street through which it is proposed to construct the sewer. (*a*)

An act to enable cities to build main sewers in certain districts, and to acquire private lands for that purpose. (1)

P. L. 1885, p. 123.

Passed March 24, 1885.

City may construct main sewers in certain districts.

747. SEC. 1. That when in a city any neighborhood of said city lacks sewers for the proper drainage thereof, and the protection of the health of the inhabitants thereof, and there are no public streets through which it is feasible and advantageous to the city to build a main sewer from such neighborhood to tide-water or other waters into which the sewerage of such city is emptied, then it shall be lawful for the board or other authority of such city having charge of the construction of sewers to lay out and construct a main sewer or sewers, sufficient for the proper drainage of such neighborhood, through and upon any lands in such city that may be in the line of such sewer or sewers located as hereinafter provided; the proceedings for the construction of such sewer or sewers, and for the assessment for the expense thereof, shall correspond in all respects with the proceedings now prescribed by law in such city for the construction of main sewers and the assessments for the expense thereof, except so far as modified by this act. (*b*)

Application of owners for construction of sewers.

748. SEC. 2. That any fifty (50) owners of land lying within such neighborhood may present to the said board an application in writing, designating the neighborhood lacking proper drainage, and setting forth the particulars bringing such neighborhood within the meaning of the first section of this act and praying that a main sewer or sewers be constructed for the use of said neighborhood; the said board shall thereupon proceed to act upon said application in the same manner as is now provided by law for proceedings to construct sewers in such city; and if such board determine to construct the sewer or sewers applied for, they may locate the same either wholly upon private lands, or partly in streets and partly upon private lands, as the nature of the case may require.

Costs of construction assessed on lands benefited.

749. SEC. 3. That of the costs and expenses of the construction of such sewers, including the cost of real estate acquired therefor as hereinafter provided, there shall be assessed by the officers charged with the duty of making assessments in such city upon the property benefited thereby, such portion as will be equal to the amount of the benefits actually acquired by said property, proportioned equitably to the benefit each piece of property shall be deemed to acquire; *provided*, that whenever the benefits of such main sewer or sewers are extended to other property by the building of lateral sewers or connections, there shall in like manner be assessed upon such property a just portion of the costs and expenses of such main sewer or sewers, which assessment may be made in connection with an assessment for such lateral sewers, or as an independent assessment.

Proviso.

Costs remaining unassessed to be paid by city.

750. SEC. 4. That the remainder of the costs and expenses of constructing such main sewer or sewers, including the cost of real estate acquired therefor, if any, remaining unassessed, shall be paid by the city, and such

(*a*) See *Stretch* v. *Hoboken*, 18 *Vr.* 268.

(*b*) This is a general law in force in all the cities of this state, and purports to deal with the entire subject of the drainage of a neighborhood as distinguished from local sewerage, and operates to supersede special provisions in city charters on the same subject, except so far as their provisions are retained or adopted by the act. *Vreeland* v. *Jersey City*, 25 *Vr.* 49. In proceedings to condemn lands for a sewer to be constructed under the act in any city, the special provisions in its city charter for acquiring land for a street, whatever they may be, must be complied with. *Ib.*

(1) See a similar act to this relating only to cities of the first class, sections 100 and 104, *ante*.

city may issue its bonds to the amount necessary to pay the same, which bonds shall be of such denomination, form, terms and conditions, and bear such rate of interest, not exceeding six per centum per annum, as shall be determined by the legislative body of such city having charge of the finances thereof, and shall be executed under the common seal of the city and the signature of the mayor or other officers thereof. May issue bonds.

751. SEC. 5. That when any such sewer or sewers shall be located upon any land other than public highways or streets, and such land or any easement, right or estate therein, shall be necessary for the construction of said sewer or sewers, then it shall be lawful for said city to acquire the said land in fee-simple, or any lesser estate or right therein; the proceedings for acquiring such property shall conform to the proceedings now provided by law for the acquiring of land for the opening of streets in such cities; in case it shall be necessary to cross any lands of the state under water, in the construction of such sewer, for the purpose of obtaining an outlet, it shall be lawful to take and use such lands for that purpose; the money for such improvement may be raised by the sale of improvement certificates or temporary loans issued according to the provisions of law governing such city; the issue and sale whereof for the purposes of this act are hereby authorized. Acquisition of private lands necessary for construction of sewer.

752. SEC. 6. That in case any such sewer or sewers are now being constructed in any city of this state, the provisions of this act shall apply thereto in the same manner and to the same extent as if this act had been passed and become a law before the construction thereof had been commenced, and that the proceedings had and taken therein shall not be invalidated or set aside by reason of any informality or any failure to comply with the requirements of sections one and two thereof, but shall be deemed and taken to be in all respects lawful. Act to apply to sewers in course of construction.

753. SEC. 7. That all benefit which may be received from assessments made for connections with lateral sewers shall be paid when received to the commissioners of the sinking fund of such city for the redemption and payment of the bonds issued under the authority of this act, and in addition thereto there shall be placed in the tax levy of such city annually a sum not less than two per centum and not more than three per centum of the principal of such bonds, and the same when collected shall be paid into the same fund for the same purpose; *provided*, that this act shall not affect any existing suit. Benefits received from assessments for connection with lateral sewers, to be paid to commissioners of sinking fund, &c.

Proviso.

Supplement.

Approved March 26, 1888. P. L. 1888, p. 260.

754. SEC. 1. That in addition to the powers and authority conferred by the act to which this is a supplement, it shall be lawful for the common council or other governing body of any city in which any sewer or sewers have been or may be constructed under the authority of the said act, at its discretion, to issue bonds, as provided for in said act, for the whole cost and expense of such sewers, when ascertained and declared, in which case, in addition to the sinking fund directed by the said act to be raised for the redemption of the bonds authorized therein to be issued, the benefits which may be assessed upon and collected from the property benefited as therein provided, shall be paid into the said sinking fund and form a part thereof, and where sinking fund commissioners exist in any such city, the same shall be paid to them for this purpose. Common council may issue bonds for whole cost and expense of sewers, &c.

755. SEC. 2. That when in any case the amount raised by taxation, together with the amount received from benefits, shall be deemed sufficient, with anticipated receipts from the investment thereof, to furnish a fund to redeem such bonds when due, then it shall not be necessary to raise by taxation any further sums for this purpose. When further sums shall not be raised by taxation.

Supplement.

P. L. 1888, p. 378.

Approved April 2, 1888.

What localities embraced in provisions of act.

756. SEC. 1. That the act to which this is a supplement shall be construed to take in, embrace and extend to any neighborhood or locality in a city having an inadequate outlet for its sewerage system, and all proceedings already had or taken for the construction of any main sewer for such neighborhood under the provisions of said act shall be deemed and taken to be in all respects lawful and valid.

An act to authorize cities to commute and adjust for a fixed sum the payment by abutting landowners of special sewer taxes.

P. L. 1886, p. 78.

Passed March 9, 1886.

Owner of land may commute for a fixed sum the payment of annual sewer tax.

757. SEC. 1. That wherever in any city of this state a special sewer tax is levied annually, in pursuance of its charter, upon lands fronting upon streets in which sewers are constructed, in proportion to such frontage, for the purpose of raising money for the payment of the annual interest upon sewer bonds heretofore issued by such city, it shall be lawful for any owner or occupant of lands subject or liable to be so taxed, to commute for a fixed sum the payment of such annual tax, in the manner hereinafter provided.

Cities authorized to commute and adjust annual sewer tax.

758. SEC. 2. That it shall be lawful for the board of finance and taxation, or other board having control of the financial affairs of any city in this state, or the common council or other legislative body of any city having no such board, upon the application of any person having a legal or equitable interest in any land or lands subject to annual sewer tax, as mentioned in section one, to commute and adjust such annual sewer tax for the payment of a certain fixed sum in gross to the city, the amount of which gross sum shall be fixed by the said body as justly and equitably as shall be possible; in fixing such gross sum, said board shall have regard to the following considerations: first, the original cost of the sewer in front of said land or lands; second, the cost of main or trunk sewer or sewers necessary to the use of the sewer in front of said land or lands; third, the amount of special or peculiar benefit actually received by said lands by reason of the construction of said sewer or sewers; fourth, the amount already paid to the city for special sewer tax on account of said land or lands; fifth, the amount of special sewer tax assessable annually upon said land or lands under the city charter; and sixth, the length of time for which such annual assessment would continue under the provisions of said charter; whenever the said body shall have fixed the gross amount so to be paid in commutation of such annual sewer tax, in any case where application shall have been made to them as aforesaid, they shall file a statement thereof in the office of the person charged with the collection of assessments in such city, thereupon the sum so fixed shall become a debt due from the person so applying to the city, for which an action at law will lie, and in addition thereto, shall be a first lien upon the said land or lands, and shall be enforced and collected in the same manner that assessments for improvements are enforced and collected in such city; thereafter no further special sewer tax as aforesaid shall be levied upon said land or lands.

What to be considered.

Statement to be made and filed.

Sum fixed to be a first lien on lands, and how collected.

When lands shall be exempt from further special sewer tax.

759. SEC. 3. That whenever the cost of any sewer shall have been assessed upon the lands benefited in pursuance of this act, no further annual special sewer tax shall be levied or imposed thereon by such city.

Moneys received for commutation of sewer tax, how applied.

760. SEC. 4. That all money received for the commutation of sewer tax or for such assessments shall be used to pay the interest upon sewer bonds of such city now outstanding, so far as may be necessary for that purpose in the year wherein the same is collected; any surplus thereof shall be applied to the payment of the principal of any sewer bonds that may mature in the year wherein the same is collected; any further surplus thereof shall be employed as a sinking fund, under the charge and control of the department of finance, to be invested under the direction of such department as hereinafter directed; all interest received upon such fund shall be used to pay interest on said sewer bonds; the principal of such

fund shall be employed from time to time to pay the principal of any such sewer bonds as they may mature until the entire fund is expended.

761. SEC. 5. That the money in such sinking fund may be invested in bonds of the United States, the bonds of the state of New Jersey or of any county thereof, the bonds of such city that may be issued after such sinking fund is established, or in any temporary loans or certificates of such city; *provided*, the bonds or temporary loans or certificates of such city shall not bear a less rate of interest than four per centum per annum or a greater rate of interest than the legal rate.

Moneys in sinking fund, how to be invested.

Proviso.

An act concerning cities, authorizing the building of sewers.

Approved April 16, 1886. P. L. 1886, p. 239.

762. SEC. 1. That it shall be lawful for any city to expend not more than fifty thousand dollars in one year, forty thousand dollars in the next succeeding year, and thirty thousand dollars in the third year, for the purpose of constructing sewers in such city; *provided, however*, that any such sewer shall not be so constructed as to at any time empty or discharge any of its contents into any river, creek, stream, lake, pond or water-course, the waters of which are used for or connect with the waters of any river, creek, stream, lake, pond or water-course used for the supply of water to any aqueduct, water main, pipe or reservoir of any city, town, township or municipality of this state.

Amount that city may expend in construction of sewers.

Proviso.

763. SEC. 2. That in order to pay the expenses of building such sewers, any such city may issue bonds bearing interest at not more than five per centum per annum, which bonds shall be payable in not less than one year nor more than ten years, at the option of the city; and that the order of the payment of said bonds shall be the same as the order of the numbers of the bonds, and that the said bonds shall be called in and paid off as frequently and whenever moneys shall be received from assessments of benefits or from taxes sufficient to pay off one or more of said bonds; and that all moneys received from assessments of benefits for said sewers shall be immediately applied in payment of such bonds, and such money shall not be used for any other purpose whatever.

Bonds may be issued. How redeemed.

764. SEC. 3. That the costs and expenses of building such sewers shall be assessed upon the property benefited thereby in proportion to the benefits received, in the same manner as the costs of street improvements are now assessed in any such city; *provided*, that no lot or parcel of land shall be assessed for more than it is benefited; *and provided also*, that in case the total amount of benefits so assessed upon the property benefited shall not equal the whole amount of the bonds issued for the payment of the costs of said sewers, as provided for in the preceding section, the difference shall be paid by the city at large in the manner provided for in section five of this act.

Costs and expenses to be assessed upon property benefited.

Proviso.

765. SEC. 4. That the assessment of benefits, made in pursuance of the previous section, shall bear interest at the same rate as other assessments in said city from and after the end of sixty days following the confirmation thereof, and unless sooner paid, shall be payable in ten equal annual installments, which, together with the interest on all unpaid installments, shall be due and payable on the first day of June in each year; *provided, however*, that any such assessment may be paid off at any earlier time if the property-owner may so desire; and in case of the failure of any property-owner to pay any such installment and interest within sixty days after it shall become due, the said lands may be sold for the collection of such installment or interest in the same manner as in the case of other unpaid assessments or taxes in such city.

Assessments to bear interest and to be paid in ten equal installments.

Proviso.

766. SEC. 5. That for providing for the payment of such bonds as shall represent the excess of the costs of such sewers over and above the total amount of the assessments upon the property benefited, if any such excess there shall be, the whole amount of such excess shall be divided into nine equal parts, and a sum of money equal to the amount of one of such parts and the interest on the other parts remaining unpaid shall be raised by

How bonds are to be paid representing excess of costs over amount of assessments on property benefited.

taxation in each year, and that one-ninth part of the bonds representing the excess of the costs over the benefits assessed on the property benefited shall be paid off by the city in each year after the first year.

Act not to apply until approved by legal voters.

767. SEC. 6. That this act shall not apply to or affect any city until the same shall have been first submitted to the legal voters of such city for their approval, either at an annual municipal election or at a special election especially ordered by city council or other governing body of such city for that purpose, and of which election at least twenty days' notice, by publication in all the newspapers published in such city, shall have been given, and unless this act shall have been approved by a majority of all the votes cast at such election.

An act to provide for the reconstruction of main outlet sewer heretofore constructed at the joint expense of two cities.

P. L. 1890, p. 85.

Approved March 18, 1890.

Proceedings for the reconstruction of main outlet sewer heretofore constructed at the joint expense of two cities.

768. SEC. 1. That whenever in this state any two cities shall have united under legislative enactment and contributed jointly to the expense of constructing a main outlet sewer for the purpose of carrying off the sewage of either or both of said cities, and where it appears that such sewer answers the purpose of draining one of such cities only and not the other, and is a detriment to the health of the city not drained by it by reason of the broken and irreparable condition of such sewer, it shall and may be lawful for the common council or other legislative body of such city not drained by said sewer to apply by petition to a supreme court justice for the appointment of three commissioners to remove the section of sewer built and constructed through such city as aforesaid, and to build and to continue said sewer from the point where it diverges from its line of direction in such city drained by it to enter the city represented by such petitioners and to carry and continue the same along the streets and avenues and through the city using said sewer, and not through the lands of any other city.

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Proceedings for appointment of commissioners to rebuild sewer.

769. SEC. 2. That if the said supreme court justice shall be of the opinion from the evidence offered, that the section of sewer constructed through the lands of said petitioners is not used for the purpose of drainage by said city, but on the contrary is detrimental to the lives and health of the citizens represented by said petitioners by reason of the broken and irreparable condition of said sewer and the flowage of sewerage from the same out and upon the lands of said petitioning city, the said supreme court justice shall order that ten days' written notice of such application be given to the city using said sewer for the purpose of being heard in answer to said petition, and if on the return day of such notice no satisfactory reason be given to said justice why the said petition should not be granted, and if it appears that the facts alleged in the said petition conform to the conditions required by this act, and are substantially true, the said supreme court justice shall then and there appoint three commissioners, being residents and freeholders of the county, to construct and rebuild said sewer from the point where it diverges in the city using and drained by it to enter the city of said petitioners to and through such city, using it to such point as may be considered most convenient and best adapted to connect said sewer with the other section of said sewer in such city drained by it; *provided*, that the said section so to be constructed shall not be built in any portion of another city than that using and drained by said sewer, nor shall it be so built as to throw or emit any of its contents on the lands of such other city not using the said sewer so drained by it.

Proviso.

Commissioners to contract for construction of sewer and file maps, &c.

770. SEC. 3. That the said commissioners so appointed, after having been duly sworn, shall have power to enter into contracts for the construction of said sewer section, and may employ such necessary surveyors and agents as they may deem proper, and shall make or cause to be made a map of the proposed route of the said sewer, and file a copy of the same in the office of the clerk of such city drained by the said sewer, and shall cause specifications and descriptions of the work to be prepared, and shall

advertise for proposals to perform the said work, in at least two newspapers printed in such city, for the period of two weeks, and that the said commissioners shall have power to make all necessary contracts with contractors for the doing and completing of said work and connecting the said sewer at such point as they may determine upon, and that the said connection sewer shall be constructed of such material as the said commissioners may deem best adapted and most durable for the service to be performed by the same. Proposals to be advertised, &c.

771. SEC. 4. [Amended by Sec. 780, *post.*]

772. SEC. 5. That on the completion of the said sewer the said commissioners shall cause an assessment map to be made showing the area of land drained by the said connection, and for that purpose shall examine into the whole matter and file their report and assessment with the clerk of the county, and file copies thereof with the clerk of the city drained by such sewer, and shall then give two weeks' public notice in two newspapers that they will meet at the city hall in said city drained by said sewer to hear objections to the said assessment, and shall then give two weeks' public notice of their intention to apply to said supreme court justice for the confirmation of said assessment by advertising for two weeks in two daily newspapers of said city drained by said sewer, and on the day mentioned in such notice the said justice on the motion to confirm the said assessment shall hear and determine all objections to the confirmation of the same, and if no satisfactory objection be made shall confirm the said assessment. Upon completion of sewer, assessment map and report to be made and filed. Notice of meeting advertised.

773. SEC. 6. That the officers or board of such city drained by said sewer who are charged by law with the making of assessments for street or sewer improvements, shall assess so much of the cost and expense of making such sewer connection upon the lands specially benefited thereby in proportion to the benefit received and no more, and any excess for such special benefit shall be paid and met by said city at large by taxation. Costs and expense to be assessed upon lands benefited.

774. SEC. 7. [Amended by Sec. 781, *post.*]

775. SEC. 8. That the said commissioners shall, if they deem proper, have power to enter upon the lands of the city petitioning for the removal of said sewer and the reconstruction of same and removal therefrom such old material upon said lands which they may deem necessary or fit for use in the construction of said new connection, and that in the event of the failure of said commissioners so to do before the confirmation of their report, the common council or other legislative body of said city petitioning for the removal of said sewer, shall have power at its own cost and expense, without notice at any time after the confirmation of the said assessment, to cause the section of sewer located upon the lands of said petitioning city to be removed and appropriate the material so removed to the use of such petitioning city. Commissioners authorized to enter on lands, &c.

776. SEC. 9. That in case of the death, resignation, refusal to serve or disability of any commissioners appointed under the provisions of this act, the vacancy shall be filled by the said supreme court justice. Vacancies in office of commissioners, how filled.

777. SEC. 10. That any assessments made or levied under this act shall be and remain a lien upon the lands assessed until paid, and that said assessments may be collected and the payment thereof enforced in the same manner prescribed by law with respect to assessments for other improvements in said city so drained by said sewer. Assessments to remain a lien on lands.

778. SEC. 11. That after its completion such sewer shall be kept in repair at the expense of the city drained by it and in whose territory it is constructed How sewer to be kept in repair.

779. SEC. 12. That all acts and parts of acts, general, local or special, and all charter provisions inconsistent with the provisions of this act, be and they are hereby repealed, and that this act shall be considered a public act and to take effect immediately. Repealer.

P. L. 1891, p. 398.

Amendatory act.

Approved April 14, 1891.

780. SEC. 1. That section four of the act entitled "An act to provide for the reconstruction of main outlet sewers heretofore constructed at the joint expense of two cities," approved March eighteenth, one thousand eight hundred and ninety, be and the same is amended so as to read as follows:

Commissioners to issue requisitions on city to be drained.

[That the said commissioners shall issue requisitions on the board having charge and control of the finances of the city to be drained by such sewer for such sums and for such amounts as the said commissioners may require for the performance of the said work, the acquiring of lands and easements, the payments of incidental expenses and the carrying out of all necessary contracts with the purposes for which the same is to be used; that said board having charge of the finances of such city so drained, shall thereupon be authorized to direct the payment of the amount so required to the contractor or contractors for the performance of work upon said sewer, or to such other person or persons for the purposes aforesaid as said commissioners shall direct, and in order to raise the moneys required for

To borrow money on bonds.

such payment, said financial board shall have the right from time to time to borrow money in anticipation of the collection of the assessment for such sewer and to issue the bonds of the city therefor under the seal of the city, signed by the mayor and attested by the city clerk, which bonds shall run for any period not exceeding ten years, and shall bear interest at not exceeding five per centum per annum, and be sold at not less than par and accrued interest, and the proceeds of such bonds shall only be used for the purposes of this act, and all assessments collected upon such improvement

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shall be pledged to the redemption and payment of said bonds; *provided, however*, that no payments shall be made by said board having charge and control of the finances of such city upon any contract for work upon said sewer, until said board shall have approved of the same.]

781. SEC. 2. That the seventh section of said act be amended so as to read as follows:

Compensation of commissioners and clerk to be allowed by justice of supreme court.

[That the said justice of the supreme court shall allow to each of said commissioners such compensation as he may consider equitable and just for their services upon the confirmation of said assessment; that said commissioners shall have power to appoint a clerk whose compensation shall also be fixed by said justice; that the corporation counsel of such city so drained shall act as the counsel to said commissioners without extra compensation.]

Repealer.

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

P. L. 1891, p. 400.

Supplement.

Approved April 14, 1891.

Lands acquired by purchase or condemnation.

783. SEC. 1. That if it should be necessary in the judgment of said commissioners to enter and take private lands for the purpose of continuing and constructing said sewer, the said commissioners shall have power to do so by agreement with the owner or owners of such lands so required for the use or purchase thereof, or when by reason of the legal incapacity or absence of such owner or owners, or the inability of said commissioners to agree for the purchase of said lands, no such agreement can be made, a particular description of the land so required for the use of the said commissioners in the construction of the said sewer shall be given in writing, under the oath or affirmation of some surveyor of the commissioners, and also the name or names of the occupant or occupants, if any there be, and of the owner or owners, if known, and their residence, if the same be ascertained, to one of the justices of the supreme court of this state, who shall cause the said commissioners to give notice thereof to the persons interested, if known and in this state, or if unknown or out of the state to make publication thereof as the said justice shall direct, for any term not less than

six days, and to assign a particular time and place for the appointment of the commissioners hereinbefore named, at which time, upon satisfactory evidence to him of the service or publication of such notice aforesaid, he shall appoint three disinterested, impartial and judicious freeholders commissioners to examine and appraise the said lands and to assess the damages, upon such notice to be given to the persons interested as shall be directed by the said justice, to be expressed therein, not less than six days; and it shall be the duty of the said commissioners, having first taken and subscribed an oath or affirmation, faithfully and impartially to examine the matter in question and to make a true report according to the best of their skill and understanding, to meet at the time and place appointed and proceed to view and examine the said lands, and to make a just and equitable estimate or appraisement of the value of the same, and an assessment of damages to be paid for such lands and damages aforesaid, which report shall be made in writing and submitted to the said supreme court justice for confirmation, under the hands and seals of the said commissioners, or any two of them, after five days' public notice in two newspapers printed in such city, of such application for confirmation, and said report shall be filed immediately after confirmation, together with the aforesaid description of the lands and the appointment and oaths or affirmations aforesaid, in the clerk's office of the county of Hudson, to remain of record therein; which report, or a copy thereof, certified by the clerk of said county, shall at all times be considered as plenary evidence of the right of the city drained by such sewer to hold and use the said land, or of the said owner or owners to recover the amount of the said valuation, with interest and cost, in an action of debt against such city drained by said sewer, in any court of competent jurisdiction; and the said justice of the supreme court shall, on such application for confirmation, tax and allow such costs, fees and expenses to said commissioners, clerk and other persons performing any of the duties prescribed in this section as they or he shall think equitable and right, which shall be included by the said commissioners in their said report.

Duty of freeholders appointed as commissioners to examine and appraise lands.

Report to be filed and considered as evidence.

784. SEC. 2. That after the confirmation of said report by such justice of the supreme court, the said commissioners appointed under the act to which this is a supplement shall issue a requisition on the board of aldermen, board of finance, or other governing body having control of the finances of such city drained by such sewer, for the amount of money necessary to pay for such lands so condemned as aforesaid, as shown by the said report of the said condemnation commissioners, which requisition shall be immediately honored and paid by said board of aldermen, board of finance, or other body having charge of the finances of such city drained by said sewer, and said board of aldermen, board of finance, or other body as aforesaid, are hereby directed, empowered and authorized to pay the same out of the most available fund then in hand, and if necessary, to make temporary loan for the purpose of meeting such requisition.

Commissioners to issue requisition on city drained.

785. SEC. 3. That all acts and parts of acts inconsistent herewith be and they hereby are repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved March 24, 1892. P. L. 1892, p. 254.

786. SEC. 1. That in case the said commissioners shall, after an inspection of the present outlet for the sewer of said city so drained by such joint sewer, find the same to be insufficient in strength or capacity to carry away the surface-waters and other drainage of the district intended to be drained thereby, then it shall be lawful for said commissioners to continue and construct said connecting sewer, so authorized to be built by them under the provisions of the act to which this is a supplement, from the point where it diverges in the city using and drained by it to enter the adjoining city not drained by it, to tide-water or other waters into which the sewerage of such city so drained is or may be emptied, instead of connecting the same with the present outlet sewer for such system.

Commissioners authorized to continue outlet sewer.

Outlet sewer, how constructed.

787. SEC. 2. That such outlet sewer shall be constructed in the manner provided in the acts to which this is a further supplement, and the cost thereof provided for and assessed upon the lands benefited thereby in the manner provided in such acts.

What lands sewer need not drain.

788. SEC. 3. That such outlet sewer may be constructed in such manner as not to afford drainage to the property fronting on the streets or other property through which the same may be laid.

An act to provide for drainage and sewerage in cities of this state. (a)

Approved April 7, 1890.

622–789
A99–71
S99–45

P. L. 1890, p. 192.

789. SEC. 1. [Amended by Sec. 838, *post.*]

Plans to be made for sewers.

790. SEC. 2. That the common council of such city may, if they think it expedient, from time to time cause to be made by competent engineers and mechanics surveys, plans and estimates of any work which may be contemplated under the powers given by this act.

Sewers may be constructed, lands acquired, &c.

791. SEC. 3. That it shall be lawful for such common council, by ordinance, whenever in their opinion the public good requires it, to order and cause sewers or drains, or a system of sewers or drains, to be constructed in any part of said city under the provisions of this act, and, if necessary, to acquire by purchase and to take and appropriate any lands and real estate that may be needed for that purpose upon making compensation to the owner or owners thereof, as is hereinafter provided; the ordinance shall specify with particularity the streets to be sewered or drained.

Common council authorized to construct sewer to tide or other water.

May take and appropriate lands.

792. SEC. 4. That in case the said common council shall deem it advisable, in order to the efficient sewage or drainage of such city, to construct a sewer or sewers to tide or other water, and for this purpose to pass through territory situate within the bounds of any township or municipality, it shall be lawful for such common council to construct such sewer or sewers, and to take, appropriate or use for this purpose, so far as necessary, any lands and real estate, whether within or without the lines of any public street or highway in such township or municipality, making compensation, if necessary, to any owner of lands so taken, appropriated or used; in case such sewer or drain be laid through or across any public street or highway in such township or municipality, or be cleansed, repaired or replaced therein, it shall be done under such reasonable regulations, if any, as may be imposed by such township or municipality with respect to like work done therein by itself, and such street or highway shall be, as far as possible, restored to its original condition at the proper costs of the city for whose benefit the work is done.

May construct sewers at joint cost with other municipalities.

793. SEC. 5. That in case the common council of such city shall deem it expedient to contract with the authorities of any other city or cities, or of any township or townships, to construct sewers or drains at their joint cost, within or without the territorial limits of the contracting parties, in such manner as may be agreed upon, or to contract for the privilege of connecting its sewers and drains with those of such other city or cities, township or townships, constructed or to be constructed, it shall be lawful for the common council or the township committee of the corporations concerned to enter into contract, in writing, for that purpose, upon such terms and for such consideration and length of time as may be mutually agreed upon.

Additional lands, how acquired.

794. SEC. 6. That in addition to the land that it may be necessary to take for the purpose of laying drains and sewers, it shall be lawful for the common council to acquire by purchase or condemnation, in the manner herein mentioned, any other land, either within said city or beyond its limits, that may be needed for sewerage purposes.

May purchase lands and erect buildings to deodorize and dispose of sewage matter.

795. SEC. 7. That in case the common council shall deem it expedient to collect the sewage of any city, or of any part thereof, from any sewer or sewers constructed under this act or any other act of the legislature of this state, and to deodorize, utilize, consume or dispose of the same by sale or

(a) The title to this act sufficiently expresses its object, and the act is constitutional. *Newark* v. *Orange*, 26 *Vr.* 514.

otherwise, wholly or in part, it shall be lawful for said common council to purchase lands in the corporate name of the city and to erect all necessary buildings, works and machinery thereon, and to take and appropriate for such purpose any lands and real estate upon making compensation to the owner or owners as hereinafter provided.

796. SEC. 8. That whenever any ordinance shall be passed by the common council directing the construction of any improvement under the provisions of this act, all further acts and proceedings which it may be necessary to take in order to complete said improvement, and all orders relating thereto, may be by resolution and not by ordinance. What acts and proceedings may be had by resolution.

797. SEC. 9. That no ordinance for the making of such improvement shall be acted upon by the common council until public notice shall be given in a newspaper published or circulating in said city of the intention of the common council to cause such improvement to be made, and to that end it shall be the duty of the city clerk, by direction of said council, to give such notice; the notice shall briefly describe the improvement and request such persons as may object thereto to present their objections in writing, at the city clerk's office, at or before the expiration of ten days from the date of the notice, or to the common council at its first meeting held after the expiration of said ten days; and said council may, at such meeting or afterwards, proceed to consider and pass such ordinance notwithstanding any objection. Ordinance not to be acted on until notice of intention is published.

798. SEC. 10. That after the passage of such ordinance it shall be the duty of the common council to appoint, by ballot, from amongst themselves a committee to be called "the committee on sewers," which shall have charge of the work under the supervision of said council, and which shall in all things proceed as the council may by ordinance or resolution ordain; such committee shall from amongst themselves elect a chairman, who shall approve in writing all bills or vouchers involving the disbursement of money, before the same is paid; and each member of such committee shall be entitled to one dollar a day for every day's actual service as a member of such committee, of which service he shall make affidavit before he shall be entitled to be paid; all work, before it is accepted, must be approved by the engineer in charge of the work and by said committee; such committee shall continue in office for one year and until their successors be appointed, the members thereof continuing to be members of said council, but if they cease to be such members then their place shall be supplied by said council, vacancies, however caused, shall be filled by said council, and all improvements made under this act shall be referred to said committee by resolution. Appointment and compensation of committee on sewers. 623-798 A97-337 Vacancies, how filled.

799. SEC. 11. That whenever the common council shall determine by ordinance to construct any sewer or sewers, drain or drains, or any sewage receptacle or pumping station, or other structure or work for treating and disposing of water or sewage, and shall deem it necessary to take and appropriate for any such purpose any lands and real estate, either within said city or beyond its limits, they are hereby authorized to treat with the owner or owners thereof for the same; and they may purchase said lands and real estate from the owners of the same, and make such compensation therefor as they may deem reasonable, and they shall receive from such owner or owners a conveyance of such lands and real estate to said city. May acquire necessary lands by purchase.

800. SEC. 12. That in case no agreement for the purchase of the lands and real estate, which it may be necessary to take for the purposes aforesaid, can be made between said common council and the owner or owners thereof, or when by the absence or legal or other incapacity of such owner or owners no such agreement can be made, or when the owner is unknown, the circuit court of the county in which said city is situated shall, on application in writing, made on behalf of said city, and after notice of the time and place of making such application, published at least ten days previous thereto in some newspaper circulating in said city and county, appoint three disinterested commissioners to make an estimate and assessment of damages as hereinafter mentioned; such estimate and assessment may embrace the lands and real estate of all owners with whom no agreement Proceedings when agreement to purchase cannot be made. Appointment of commissioners.

can be made; in case of the death, resignation, refusal to serve or disability of any commissioner so appointed, the vacancy shall be filled by said court as soon as may be; the said commissioners, after having taken the oath required by section nineteen hereof, shall give notice, either by advertisement in some newspaper circulating as aforesaid or by mailing the same to the last-known post-office address of such owner, of the time and place of their first meeting at least ten days prior thereto, and said commissioners, when met, or a majority of them, shall have power to examine witnesses under oath, to be administered by any one of them, and to enter upon and view the premises, and to adjourn from time to time; and they, or a majority of them, shall make a just and true estimate and assessment of the damages that any such owner or owners will sustain by taking and appropriating, in manner aforesaid, such lands and real estate; and in estimating and assessing such damages, the commissioners shall have regard to the value of the lands and real estate taken and to the injury to the remaining land.

Assessment of damages, &c., to be made.

Duty of commissioners appointed to condemn.

801. SEC. 13. That said commissioners shall make a report of their estimate and assessment to said circuit court, and upon the coming in of such report signed by said commissioners, or any two of them, the said court shall cause such notice to be given, by advertisement or otherwise, as it shall direct, of the time and place of hearing any objection that may be made to such assessment, and after hearing any matter which may be alleged against the same, it shall by rule or order either confirm the said report or refer the same to the same commissioners for revision or correction, or to new commissioners to be appointed by it, or it may itself, upon a hearing had before it, modify or alter such report and any award of damages made therein in such manner as to it may seem just; and the said commissioners to whom the said report may be so referred, shall return the same corrected and revised, or make a new report, and the same on being so returned shall be confirmed or again referred, or may be modified or altered by said court as aforesaid, and so from time to time, until a report shall be made or returned, which the said court shall, with or without alteration, confirm; and such report when so confirmed shall be final and conclusive as well upon the said city as upon the owner of any land affected thereby, except as herein provided, and the said court shall cause a certified copy of said report to be transmitted to the city clerk with a certified copy of the rule of said court confirming the same.

Court may modify or alter report.

Upon confirmation, report to be final and conclusive.

Right to take lands upon payment of award.

802. SEC. 14. That said report or a certified copy thereof shall be plenary evidence of the right of said city and its agents to enter upon, take and use the said land and real estate, with the appurtenances, the said common council first tendering to the owner or owners thereof, if resident in the county in which said city may lie, the amount so awarded; and if any owner be not a resident of said county, or upon due inquiry cannot be found therein, or is unknown, or is a lunatic, or idiot, or under age, or is for any other cause incapacitated to receive the amount awarded, or will not receive the same and sign a proper receipt therefor when tendered, or in case a dispute arise (of which the common council shall be duly notified), as to the persons entitled to receive the money, or as to the proportions in which they shall be so entitled to receive it, then affidavit shall be made of the facts and filed in the office of the county clerk, and the amount awarded to any such owner shall be deposited in said circuit court before said city shall have the right to take and use the said lands and real estate; in case of such dispute as aforesaid, the matter may be determined by said circuit court in such mode, summary or otherwise, as it may deem proper, or in case of any want of jurisdiction in said circuit court, by the proper tribunal.

When award to be paid into court.

Appeal from award of damages.

803. SEC. 15. That any person aggrieved by any assessment of damages may appeal to the supreme court of this state at any time within sixty days after the confirmation of the commissioners' report by the circuit court, and said supreme court shall thereupon order a trial by jury to assess such damages anew, and the trial shall be conducted as in other cases of trial by jury and set aside or reviewed in like manner; *provided*, that the

completion of said improvement shall not be delayed thereby, and the common council may proceed therewith as though said appeal had not been taken.

Appointment of commissioners to assess benefits.

804. SEC. 16. That immediately upon the completion of the work, or of a definite part thereof, the common council shall, by resolution, ascertain the whole amount of the costs, damages and expenses of making and constructing drains and sewers, or a system of sewerage or drainage, or any part of such system, so far as completed; and they shall, without delay, apply to the circuit court for the appointment of three disinterested commissioners to make a just and equitable assessment thereof upon all the owners of lands and real estate fronting on the improvements which are peculiarly benefited thereby, in proportion as nearly as may be to the advantage each shall be deemed to acquire; the said application shall be on the same notice as is prescribed in section twelve hereof for the appointment of commissioners to assess damages, and the court shall have the same power with respect to their appointment and to the filling of vacancies as is conferred by that section; that said commissioners shall give the notice which commissioners to assess damages are required to give by that section, and they shall have the same powers to examine witnesses and to view the premises as is thereby conferred.

Commissioners to take oath and make assessment of costs, damages, &c., on owners of lands benefited.

805. SEC. 17. That said commissioners, after having taken the oath mentioned in section nineteen hereof, shall at once proceed to perform the duties hereby conferred upon them, and they shall, within sixty days, unless the court shall, before or after its expiration, extend the time, make a just and equitable assessment of the costs, damages and expenses, ascertained by said common council as aforesaid, upon the owners of lands and real estate fronting on the improvements which are peculiarly benefited thereby in proportion, as nearly as may be, to the advantage each shall be deemed to acquire; in case the said costs, damages and expenses shall exceed the amount of said benefits, then the excess shall be assessed upon and paid by the city, and no benefits shall be assessed in respect of the cost of any improvement or work in so far as such improvement or work extends beyond the line of the whole property assessed, but the cost thereof shall be assessed upon and paid by the city.

Excess to be paid by city.

Commissioners to make report of assessment.

806. SEC. 18. That said commissioners shall make a report, in writing, of their assessment, signed by them or any two of them, to said circuit court, and the proceedings upon the coming in of such report shall be in all respects similar to those prescribed in section thirteen hereof; and the court shall have the same power to confirm, alter and refer such report as is given by that section, and shall proceed in all respects according to the provisions thereof, so far as the same are applicable; the report, when confirmed, shall be final and conclusive, both upon the city and upon the owner of any land affected thereby.

Confirmation of report final and conclusive.

Commissioners to take oath.

807. SEC. 19. That the commissioners appointed to assess damages and those appointed to assess benefits, before they enter upon the execution of their duties, shall severally take and subscribe an oath or affirmation before the mayor of the city or any master in chancery to make the assessment fairly and impartially according to the best of their skill and judgment.

Compensation of commissioners, how determined.

808. SEC. 20. That the court shall settle and determine the compensation to be paid to said commissioners, and the costs and expenses of the application, report and proceedings, all of which shall be paid by said city.

Mistakes, &c., not to invalidate any assessment or sale.

809. SEC. 21. That no mistake in naming or omitting to name the owner of lands or real estate in any report, map or proceeding, or in designating the quantity of his interest or the nature of his estate, or any misrecitals, shall in anywise invalidate any assessments or sales made under this act.

810. SEC. 22. [Amended by Sec. 842, *post.*]

Authorized to issue bonds for payment of costs and expenses of sewers and drains for surface-water.

811. SEC. 23. That in case any city shall find it necessary to provide separate sewers or drains, or a separate system of sewers or drains, to carry off the surface-water or the water flowing into or through any water-course, it shall be lawful for the common council in its discretion to provide for

the payment of the costs and expenses of such improvement by issuing the bonds of the city in the manner provided by section thirty-eight hereof, without resorting to an assessment for benefits; such bonds shall be issued in accordance with the requirements of section thirty-nine hereof.

Assessments for benefits to be a lien.

812. SEC. 24. That the assessment for benefits shall be a lien upon the lots or parcels of land respectively assessed from the date of the ratification or confirmation of the report thereof, and shall be immediately due and payable to the collector or receiver of taxes; and it shall be the duty of the common council to forthwith furnish such officer with a certified copy of such assessment, which he shall enter in a book to be kept in his office for that purpose, and thereupon he shall give notice for two weeks in a newspaper circulating in said city, to be inserted therein once at least in each week, that said report has been delivered to him, and requiring payment of the sums assessed within sixty days from and after the first publication of said notice, and in case said assessment shall remain unpaid at the expiration of sixty days from and after such first publication the said assessment shall draw interest thereon from that time at the rate of one per centum per month; and it shall be the duty of such officer to proceed forthwith in the collection of said assessment by a sale of the land in respect of which such assessment may have been made.

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Duties of collector or receiver of taxes.

Assessments to draw interest until paid.

Notice of assessments to be given.

813. SEC. 25. That the said collector or receiver of taxes shall thereupon give a second notice, by advertisement in a newspaper printed or circulating in said city, that unless such assessment, with interest thereon as aforesaid and all costs and fees, shall be paid to him at his office within thirty days after the first publication of said second notice, he shall proceed, at a certain time and place therein specified, between the hours of one and five o'clock in the afternoon, to make sale in accordance with the provisions of this act of the said lands and real estate whereon said assessment shall have been imposed or may be a lien; that said second notice shall be published in a newspaper at least four weeks successively, at least once in each week, and shall contain a brief abstract of said assessment, showing the name of the owner or owners when known, a brief description of said lands and real estate, and the amount of unpaid assessments due thereupon, and it shall be lawful to incorporate more than one assessment in said notice.

Collector or receiver of taxes to sell lands.

Term of years.

814. SEC. 26. That at the time and place, and between the hours mentioned in said notice, the said collector or receiver of taxes shall proceed to sell at public auction the several parcels of land and real estate upon which the said assessment shall remain due and unpaid for the lowest term of years, but in no case exceeding fifty years, for which any person will take the same and pay the amount of such assessment, with the interest thereon as aforesaid, and all costs and fees, including the expense of advertisement and sale; that such payment shall be made by the purchaser before the close of the sale, and if not so made the said collector or receiver of taxes may resell the property or the city may have its action against the purchaser for the payment of the whole amount due, with interest thereon as aforesaid; that the sale may be adjourned from time to time, at the discretion of said collector or receiver of taxes, until all the said lands and real estate shall have been disposed of, and that such parcels as are not bid for when offered for sale or resale shall be struck off to the city for a term of fifty years.

Certificate of sale delivered to purchaser.

What certificate to contain.

Certificates to be recorded and assignable.

815. SEC. 27. That at or before the close of the sale the said collector or receiver of taxes shall make out under his hand and seal, and deliver to each purchaser, a certificate of the sale of each lot of land and real estate so purchased by him; that such certificate shall contain a short description of the property, and shall state the term of years and the sum for which it was sold, as well as the time when the right to redeem the same will expire; that such certificate shall also show the particular assessment under which the sale was made, and the amount assessed against the lot sold, with the interest, costs, fees and expenses; that such certificate shall be presumptive evidence of the facts therein stated, but any misrecital shall not vitiate it, and it shall be recorded in the office of the city clerk in

a book to be kept for the purpose, and may be assigned, but no assignment shall have any effect until the same shall be recorded as aforesaid in the office of the city clerk, and no declaration of sale shall be executed or delivered to such purchaser or assignee, as hereinafter provided, until said certificate shall have been canceled and filed with the city clerk, unless the loss or destruction thereof be established by affidavit to the satisfaction of the common council.

Record of sales and certificates granted, &c., to be kept.

816. SEC. 28. That the collector or receiver of taxes shall keep a full and accurate record in his office of all proceedings upon such sales, including a statement of all certificates granted and all redemptions of property sold by him, to which record all persons claiming to be interested shall have free access at all reasonable times.

City may assign certificates of sale.

817. SEC. 29. That if the city becomes the purchaser of any lands and real estate at any such sale, the certificate of sale shall be assignable as aforesaid, and all the other provisions of this act in relation to the sale shall apply to the city the same as to any other purchaser.

Rights of mortgagees not divested unless notice was given.

818. SEC. 30. That no mortgagee or assignee of any mortgage, whose mortgage or deed of assignment, as the case may be, shall have been duly registered before any such sale for unpaid assessments, shall be divested of his rights in the property covered by such mortgage, unless six months' notice of such sale shall have been given to him in writing by the purchaser, or by any person claiming under him; that such notice shall be served personally upon the said mortgagee or assignee, if a resident of said county, or if he be not so resident, by being directed to him at his place of residence, as stated in the mortgage or deed of assignment, and by being deposited in the post-office of said city, and that in the latter case said notice shall likewise be published for the space of eight weeks, at least once each week, in a newspaper circulating in said city, and that within one month after such service, or service and publication of said notice, it shall be the duty of the person serving, or causing the same to be served, to place in the office of said collector or receiver of taxes a copy of said notice, together with an affidavit of some person (who shall be certified by the officer taking the affidavit to be a credible person), as to the manner of service, or service and publication thereof.

Notice, how served and published.

Owners, &c., may redeem lands within three years.

819. SEC. 31. That the owner, mortgagee, occupant or any person having a legal or equitable interest in any lands and real estate sold as aforesaid, may redeem the same at any time within three years thereafter, by paying to the collector or receiver of taxes, for the use of the purchaser, his legal representatives or assigns, the said purchase-money, together with any assessment for taxes or other assessment which the said purchaser may have paid, and of the payment of which he may have filed a written notice in the office of the said collector or receiver, with interest at the rate of one per centum per month on such purchase-money from the time of such sale, and on such payment or payments from the time of filing such notice or notices as aforesaid; and that the certificate of said collector or receiver of taxes, stating the receipt of such moneys and showing what property the same was intended to redeem, shall be evidence of such redemption; and that upon the receipt of such moneys by the said collector or receiver, he shall cause the same to be refunded to the purchaser, his legal representatives or assigns, on demand, and that all proceedings in relation to said sale shall then cease and determine; and that if the person so redeeming be a judgment creditor or a mortgagee, or the assignee of a judgment or mortgage, he shall have a lien on the lands and real estate so redeemed by him, by virtue of this act, for the amount so paid by him to effect such redemption, with lawful interest thereon, in the same manner as if the same had been included in his mortgage or judgment, and he may enforce the payment in the same manner; and that the said collector or receiver of taxes shall make out two certificates for all property so redeemed, one to be kept by the person so redeeming the same, and the other to be filed in the office of the city clerk.

City to execute declarations of sale to purchasers.

820. SEC. 32. That if any lands and real estate so sold shall not be redeemed as aforesaid, the city by its corporate name shall execute to the

purchaser, or his legal representatives or assigns, a declaration of sale, signed by the mayor or other head officer of the city, and attested by the city clerk, containing a short description of the premises sold together with a brief statement of the facts of assessment, advertisement and sale, including the date of sale and the term for which said premises were sold; that said declaration shall be recorded in the office of the city clerk in books to be kept for that purpose, and until the same be so recorded, such lands and real estate may be redeemed, as hereinbefore provided, notwithstanding the period of three years from the time of such sale may have expired; that such declaration of sale shall be presumptive evidence in all courts and places that such sale and proceedings were regularly made and had, according to the provisions of this act, and no misrecital shall vitiate it, and that such purchaser and his legal representatives or assigns shall, by virtue thereof, lawfully hold and enjoy such lands and real estate, with the rents, issues and profits thereof, for his, her or their own proper use, against the owner or owners thereof, and all persons claiming under him, her or them, until the term shall be completed and ended for which the purchaser agreed to take the same, and at the expiration of said term shall peaceably and quietly yield up such lands and real estate to the lawful owner or owners thereof, being liable, however, for any waste or injury done or committed by him, her or them, in the same manner as a tenant for a term of years.

Declaration to be recorded and evidence of sale, &c.

City clerk to give certificates of search.

To cancel certificates, assignments, &c.

821. SEC. 33. That in addition to the recording of such certificates and declarations of sale, an assignment of such certificate as aforesaid, the city clerk shall also give certificates of search in relation thereto to any person or persons applying for the same, and he shall also cancel such certificates and such assignment thereof so recorded whenever the lands and real estate for which they were given shall be redeemed, upon the presentation and filing in his office of the said collector's or receiver's certificates of such redemption.

Compensation and fees to tax collector and city clerk.

822. SEC. 34. That besides the compensation which is now or may be hereafter allowed to the said collector or receiver of taxes, he shall be allowed such special compensation for special services as may be from time to time determined by the common council; and that he shall also be entitled to receive from each purchaser the sum of one dollar for every certificate or declaration of sale by him given; and that the city clerk shall also be entitled to receive from said purchaser the sum of one dollar for every certificate or declaration of sale and every assignment of such certificate to be recorded by him as aforesaid, and also the sum of one dollar for every search (including the certificate thereof), made by him in the record of certificates and declaration of sales and assignments as aforesaid; and that the said collector or receiver of taxes shall likewise collect, for the use of the city, the sum of one dollar from each purchaser at the time of the delivery of the said certificate of sale for the expenses of advertising and selling each and every lot or parcel of said lands and real estate by him purchased as aforesaid.

For advertising and sale of lots.

823. SEC. 35. [Amended by Sec. 843, *post.*]

Renewal of obligations, &c.

824. SEC. 36. That if a sum equal to or greater than the amount assessed for benefits has already been borrowed and its payment secured by the notes or other temporary obligations of the city, such notes and obligations, to an amount equal to the amount assessed for such benefits, may be renewed from time to time as far as necessary for a period of five years longer, and all moneys paid in on assessments during that period shall be exclusively devoted to the payment of and shall be used to pay said obligations as they mature; if the amount borrowed be less than the amount assessed, the common council may, if necessary, borrow and issue its temporary obligations for such additional sum as, with the amount already borrowed, will equal the amount assessed; and the indebtedness of the city, in whatever form it may exist, shall, to the amount of the assessment, be paid and discharged out of the moneys paid in on assessments, so far as they may be paid in during said period of five years; if, at the expiration of said period of five years, the said indebtedness, so equal in amount to

the benefits assessed, be not paid in full, the common council, in order to provide for its payment, shall issue the bonds of the city for the amount remaining unpaid, which bonds may be registered or coupon bonds, payable in the manner hereinafter provided; and all assessments received by said city, after said period of five years, shall go into its treasury and be used as the common council may direct. May issue bonds.

825. SEC. 37. That to provide for the difference between the costs and expenses of the improvement, including all incidental expenses and the amount of the assessment, the common council shall, after the assessment has been confirmed, issue the bonds of the city, which may be registered or coupon bonds, payable in the manner hereinafter provided; these bonds shall be used (1) to discharge the notes or temporary obligations of the city issued as aforesaid, so far as they exceed in amount the assessment for benefits; (2) to satisfy and discharge whatever may remain due on the costs and expenses of the work. Issue of bonds authorized.

826. SEC. 38. That in case there be no assessment for benefits, then the common council may issue the registered or coupon bonds of the city to an amount sufficient to defray the costs and expenses of the improvement, or of any contract entered into pursuant to the provisions of this act, payable in the manner next hereinafter provided. When bonds may be for whole cost.

827. SEC. 39. That the common council shall cause the aforesaid bonds of the city (other than its temporary obligations) to be so issued that they shall become payable in successive years, and not more than forty years from their date; they shall mature in such manner that, of the whole number of bonds outstanding, an equal amount of them (in value), as nearly as practicable, shall become payable in each year after the year of the earliest issue; in thus arranging their maturity, regard may be had to the bonds already issued for completed improvements, and also to the bonds which will probably be required for improvements actually contemplated but not yet authorized. Bonds issued, when payable.

828. SEC. 40. That in addition to the powers hereby conferred, the common council may, from time to time, if necessary, issue tax arrearage bonds to an amount not exceeding the amount of unpaid taxes levied on account of sewers and drains, payable not more than ten years from their date. Tax arrearage bonds may be issued.

829. SEC. 41. [Amended by Sec. 837, *post.*]

830. SEC. 42. That said notes and obligations shall be signed by the mayor or acting mayor, or other head officer of said city, and by the clerk or collector thereof, as may be provided by the common council, and shall be issued under such regulations and restrictions as the common council may make. How city obligations shall be signed.

831. SEC. 43. That the common council shall raise by tax in each year, as other moneys are raised in said city, such sum of money as may be necessary to pay the interest on the notes and other obligations of the city, issued as aforesaid, including, when necessary, interest on such of its obligations as may be payable out of the proceeds of assessments and also the principal of such bonds, except obligations payable out of assessments and temporary obligations issued as aforesaid, as may mature during the ensuing fiscal year. Interest on obligations to be raised by tax.

832. SEC. 44. That said common council may also, in lieu of issuing bonds of the city, pay the costs and expenses of any improvements or any annual or other sum due under any contract authorized by this act with money to be raised by taxation, after the work has been determined upon by ordinance, or the contract has been made, as other moneys are raised in said city; *provided*, that the sum so raised shall not in any one year exceed twenty-five thousand dollars. Cost of sewer may be raised by tax in lieu of bonds. Proviso.

833. SEC. 45. That whenever any work to be performed or materials to be furnished may involve an expenditure of any sum of money exceeding five hundred dollars, the common council shall designate a time when they will meet at their usual place of meeting to receive proposals, in writing, for doing the work or furnishing the material; and such council shall order the city clerk to give notice, by advertisement inserted in one or more news- What work shall be awarded to lowest bidder.

papers published or circulating in said city, at least two weeks before the time of such meeting, of the work to be done or materials to be furnished, of which, at the time of such order, they shall cause to be filed in his office a particular specification; all such proposals shall be publicly opened in the presence of those who choose to attend; and not more than one proposal shall be received from any one person, directly or indirectly, for the same contract; and the said council may reject any and all of said proposals and direct said clerk to advertise for new ones and accept such as shall, in the opinion of a majority of the council, subject to the reservations herein mentioned, be deemed most advantageous for the city; and they shall reduce the contract to writing and require a bond for its faithful performance; but all contracts, when awarded, shall be awarded to the lowest bidder offering satisfactory security; this section shall not apply to any engineer or agent of the city engaged in supervising or directing the work.

Statement, &c., of amount of obligations issued under this act to be published annually.

834. SEC. 46. That it shall be the duty of the receiver or collector of said city, not more than one month and not less than one week prior to the charter election, to publish in two of the newspapers published therein, a statement showing the amount of temporary or other obligations issued under this act during the preceding twelve months, and the whole amount outstanding, what proportion of the indebtedness thereby created is represented by assessment, and what must be provided for by general tax; what work on what sewers or drains has been begun, prosecuted or completed, and what money has been expended on each sewer on construction account during the year.

Public water-supply not to be defiled.

630-835
A99-71

835. SEC. 47. That no provision of any act which prohibits the pollution of any of the waters of this state used to supply any aqueduct or reservoir, or which are distributed for public use, is intended to be hereby repealed, and this act shall not be construed to authorize the discharge of sewage into fresh water in such manner as to defile a source of public water-supply.

Words "common council," how construed.

836. SEC. 48. That the words common council, as used in this act, shall be construed to conclude any board of aldermen or other municipal body having the power to pass ordinances or resolutions for the government of said city.

Amendatory act.

Approved April 24, 1894.

P. L. 1894, p. 131.

837. SEC. 1. That section forty-one of the act entitled "An act to provide for drainage and sewerage in cities of this state," approved April seventh, one thousand eight hundred and ninety, be amended so as to read as follows:

Interest on and sale of city obligations.

[That the notes or other obligations of the city shall bear interest at a rate not exceeding six per centum per annum; they shall not be sold for less than their par or face value, and they shall not be issued to an amount exceeding at any time thirteen per centum of the valuation of the taxable property in said city as shown on its official books.]

Amendatory act.

Approved May 1, 1894.

P. L. 1894, p. 177.

838. SEC. 1. That section one of the act above mentioned, to which this act is amendatory, be and the same hereby is amended so as to read as follows:

Cities may construct sewers and drains.

[That it shall be lawful for any city in this state to provide for and cause to be constructed sewers and drains, or a system of sewerage and drainage, or either or any of them, in the manner herein provided; *provided*, that the owners of at least one-half in value of the real estate in said city, as shown by the assessors' books, have petitioned or shall petition its common council so to do; *and provided further*, that after one such petition shall have been presented, no further petition shall be necessary to enable such city or its common council to make any improvement or improvements under this act.]

Proviso.

Proviso.

Supplement.

Approved March 14, 1895. P. L. 1895, p. 297.

Preamble.

WHEREAS, After sewers are laid in the streets of cities, such streets are frequently opened and torn up for the purpose of making house connections with such sewers; therefore,

House connections may be built to the curb line.

839. SEC. 1. That in all cities in this state where sewers are now being built or hereafter may be built, under and by virtue of the act to which this is a supplement, the common council, board of aldermen or other municipal body, charged by law with the construction of sewers in such cities, shall have power and authority to build and construct at the time of the building of such sewer, house connection from such sewers proper to the curb line of the lots fronting on the street or streets through which such sewer or sewers shall be built.

Cost thereof charged to lots particularly benefited.

840. SEC. 2. That the costs and expenses of making such house connections shall be charged to and borne by the lots and subdivisions of lots particularly benefited thereby, and shall be assessed against the same at the same time and by the same authority making the assessments for such sewers proper.

Repealer.

841. SEC. 3. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Amendatory act.

Approved March 14, 1895. P. L. 1895, p. 298.

842. SEC. 1. That section twenty-two of the act entitled "An act to provide for drainage and sewerage in cities of this state," approved April seventh, one thousand eight hundred and ninety, be amended so as to read as follows:

Assessments of damages and benefits, by whom made. Proceedings.

[That in case there shall be in any city a board of assessments or commissioners of assessments, appointed by the common council and entrusted with the duty of assessing damages and benefits generally in respect of such local improvements as may be authorized by the charter of such city, or in case any city shall, by ordinance, provide for the appointment of commissioners of assessments to be entrusted with the duty of assessing damages and benefits under and by virtue of this act (which ordinance all cities are hereby authorized and empowered to pass), and such commissioners shall be appointed as provided by such ordinance, it shall be lawful for said council to refer all assessments of damages and benefits authorized by this act to such board or commissioners, who shall make said assessments in the manner and according to the principles prescribed by this act; such board or commissioners may be at once sworn to make all assessments fairly and impartially, according to the best of their skill and judgment, and if so sworn need not be sworn again; they shall receive such compensation for their services under this act as shall be determined by the common council, and instead of reporting to the circuit court they shall make their report to the common council, which shall proceed to consider, review, alter, ratify and confirm the same at any meeting of which at least two weeks' previous notice, by advertisement, shall be given by the city clerk, or at any subsequent meeting; such notice shall be published at least twice in a newspaper published or circulating in said city, and shall briefly state the object of such meeting with reference to said assessment; and said council, in its discretion, shall have power to refer the matter to any committee of their own body before taking final action upon it; such report, when ratified or confirmed, shall be final and conclusive, both upon the city and upon the owner of any land affected thereby, except that any person aggrieved by an assessment of damages may appeal to the supreme court in the manner provided by section fifteen hereof; all the provisions of section fourteen hereof shall be applicable to the case of all references made under this section.]

843. SEC. 2. That section thirty-five of said act be amended so as to read as follows:

Council may borrow money on temporary obligations.

[That for the purpose of defraying the costs and expenses of improvements, incurred under and by virtue of this act, the common council may, if necessary, borrow money and secure the payment of the same by the notes and other temporary obligations of the city; these notes and obligations may be renewed from time to time until the work be done or the assessments for benefits confirmed; when so confirmed the common council shall provide for the costs and expenses of the improvements in manner hereinafter mentioned.]

An act to provide for the efficient sewerage of lowlands in the cities of this state.

P. L. 1893, p. 474.

Approved March 27, 1893.

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Duty of common council, &c., when system of tidal sewers does not efficiently drain lowlands.

844. SEC. 1. That whenever it shall be represented by the board of health of any city in this state to the common council, board of aldermen, or other governing body of any city in this state, wherein any marsh or lowlands are situated, that, in the opinion of such board, the system of tidal sewers then in operation in such city does not efficiently drain said marsh or lowlands, and that by reason thereof the health of the entire city is impaired or endangered, or likely to be impaired or endangered unless a more efficient and practical method of draining said marsh or lowlands be substituted for the system then in operation in said city, it shall be the duty of said common council, board of aldermen, or other governing body of such city, to inquire into the facts so represented, for the purpose of ascertaining the best means of effectually and systematically draining the said lowlands.

Common council may make additions to outlet sewers.

845. SEC. 2. That the said common council, board of aldermen, or other governing body of such city, after having fully considered the subject, shall decide as to the adoption and selection of such necessary outfall, outlet, sewer or sewers, and necessary appurtenances thereto, for such drainage, and thereafter shall have power, by resolution, from time to time, as said common council, board of aldermen or other governing body may deem necessary, to make such connections or additions to such outlet or outfall sewers as they may consider necessary for the complete drainage of said lowlands, and to that end may employ, from time to time, as often as may be necessary to effectuate said plan of sewerage, competent engineers and surveyors to superintend and direct said work, and draw such plans, maps and specifications for the proper execution of said work, or any part thereof, and to employ such agents and servants, and enter into such contracts for the performance of the work, and for the erection and construction of such sewer or sewers, or other works or appurtenances in connection therewith, through the public streets and other places in such city, as the said common council, board of aldermen or other governing body of said city may, from time to time, consider necessary under the circumstances.

May employ competent engineers and surveyors.

Shall advertise for proposals for said work.

846. SEC. 3. That after the making and filing in the office of the city clerk of such city of said map, plan and specifications for said work, the said common council, board of aldermen or other governing body of such city shall advertise in at least two newspapers printed and circulated in said city, for twenty days, for proposals for the doing of said work, and that the said common council, board of aldermen or other governing body shall award the contract for the said work to the lowest responsible body who shall thereafter give bonds in such sum as the common council, board of aldermen or other governing body may designate in said advertisement for the faithful performance of said work.

Bonds to be given.

May enter on lands and acquire same by purchase or condemnation.

847. SEC. 4. That the said work shall proceed under the direction of said common council, board of aldermen or other governing body of such city, or their appropriate committee when so ordered, and under the direction of such engineer or engineers as the said common council, board of aldermen or other governing body may designate, and for the proper performance of said work the said common council, board of aldermen or other governing body shall have power to enter upon all lands on the route of

such sewers for the purpose of surveying, leveling and laying out the route of such sewer or sewers and of using such land as shall be found necessary for the locating and building of such sewer or sewers and to erect all necessary works or appurtenances in connection therewith; and when the said common council, board of aldermen or other governing body cannot for any reason agree with the owner or owners of such required lands for the purchase thereof, a particular description of the land so required for use shall be submitted by petition in writing by said common council, board of aldermen or other governing body to the circuit court of the county, which court shall then order that on a certain day, not less than five days from the making of said order, all persons interested in said lands and premises be required to appear before said court and show cause why commissioners should not be appointed to condemn the said lands, a copy of which order shall be served on all persons interested resident in the state, in the same manner that a summons in an action at law is now required to be served, and upon all persons not resident of this state by such publication as said circuit court may in said order direct, at which time and place, upon satisfactory evidence of the service or publication of said order, the said judge shall appoint three disinterested, impartial and judicious freeholders of the county commissioners to examine and appraise the said lands and to assess the damages upon such notice to all persons in interest as may be expressed in the order appointing said commissioners; and it shall be the duty of the said commissioners, having first taken and subscribed an oath or affirmation faithfully and impartially to examine the matter in question and to make a true report according to the best of their skill and understanding, to meet at the time and place appointed and proceed to view and examine said lands and to make a just and equitable estimate or appraisement of the value of the same, and an assessment of damages to be paid for such lands, which report shall be made in writing under the hands and seals of said commissioners or any two of them and filed within ten days thereafter, together with the aforesaid description of the lands and the appointment and oaths or affirmations aforesaid in the clerk's office of the county of Hudson to remain of record therein; which report or a copy thereof certified by the clerk of said county shall at all times be considered as plenary evidence of the right of said common council, board of aldermen or other governing body, to have, hold and use the said lands of the said owner or owners to recover the amount of the said valuations, with interest and costs, in an action of debt in any court of competent jurisdiction in a suit to be instituted against the said common council, board of aldermen or other governing body, if they shall neglect or refuse to pay the same in the manner aforesaid for twenty days, and the said circuit court shall on application of either party and on reasonable notice to the others, tax and allow such costs, fees and expenses to the commissioners, clerk, and other persons performing any of the duties prescribed in this section, as said court shall think equitable and just.

Commissioners to take an oath.

Report to be filed in county clerk's office.

Court shall prescribe costs, fees, and expenses of commissioners, &c.

848. SEC. 5. That for the purpose of meeting and defraying the payments due on any contract made by said common council, board of aldermen or other governing body with any contractor or contractors, said common council, board of aldermen, or other governing body shall upon a certificate of the managing engineer in charge of said work, order [and] issue improvement certificates to the person named in said engineer's certificate for the amount named in said engineer's certificate, which improvement certificate shall pledge the faith and credit of said city for the payment thereof, at a period not exceeding three years from the date of issue, and shall bear interest at a rate not to exceed six per centum per annum, but shall contain a proviso that the same be sooner redeemed at the option of said city by due public notice.

Improvement certificates may be issued.

849. SEC. 6. That at the completion of said work, or of any part thereof, and when the cost of the same shall have been fully fixed and ascertained, and as often as may be necessary to effectuate said system of sewerage, the said common council, board of aldermen or other governing

Improvement certificates to be funded by issue of bonds.

body shall cause the debt so ascertained and represented by said improvement certificates to be funded by causing bonds of the said [city] to be issued in sums of not less than one thousand dollars, bearing interest at a rate not to exceed five per centum per annum, payable in not less than twenty or more than forty years from the date of issue, pledging the faith and credit of said city for the payment thereof, which bonds shall, after public notice of the sale thereof in two papers published in said city, and in such other papers as said common council, board of aldermen or other governing body shall think proper, be sold to the highest bidder therefor, which said bonds shall be so issued as to mature as follows: ten thousand dollars thereof shall become due and payable twenty years from the date of issue, and ten thousand dollars every year thereafter until the full amount of said issue of bonds be paid and satisfied; and that for the purpose of meeting the principal of said bonds at maturity as aforesaid, the board or body having control of the financial appropriations of said city shall annually appropriate, after the expiration of ten years from the date of issue of said bonds, a sum sufficient to meet said bonds when they mature, which sum shall be devoted to a sinking fund for the purpose aforesaid, and the said board of finance or other body in control of the appropriations in said city shall also appropriate annually sufficient moneys in the tax levy of each year to meet the current interest due on said bonds and the incidental cost of maintaining said sewer or sewers; *provided, however*, that it shall not be lawful for said common council, board of aldermen or other governing body to incur an indebtedness for or on account of the construction of such sewer or sewers or the appurtenances thereof to exceed one hundred thousand dollars in any year, or to issue bonds as aforesaid for or on account of said work for greater amount in any years than one hundred thousand dollars.

Notice of sale to be given.

Shall appropriate annually, after ten years, for sinking fund.

Proviso.

Repealer.

850. SEC. 7. That all acts and parts of acts and charter provisions, general and special, inconsistent herewith, be and they are hereby repealed, and that this act shall be considered a public act, to take effect immediately.

An act to enable cities to construct sewers through ancient unnavigable creeks or water-courses.

P. L. 1894, p. 492.

Passed May 24, 1894.

Unnavigable water-course may be used to carry inclosed sewer.

851. SEC. 1. That in any city of this state, wherein any unnavigable creek or water-course now exists, into which sewers of said city now empty, it shall be lawful for the official board of such city having the charge and control of sewers in such city, upon application in writing of fifty owners of land drained by such unnavigable creek or water-course or sewer emptying into the same, to cause to be constructed through such ancient unnavigable creek or water-course an inclosed sewer, connecting with the sewers emptying into such creek or water-course, and from such point in such ancient creek or water-course, or from such boundary thereof to such point in said creek or water-course, or to such outlet of same, as shall be determined upon or as shall be set forth in said application, or to such outlet upon any of the tide-waters or other waters bounding upon such city into which the sewers thereof now enter and further to cause such ancient creek or water-course to be thereupon filled up; *provided, however*, that such sewer shall be constructed so as not to empty into or permit directly or indirectly the passage thereby of sewage into any tide-water basin established by or under the authority of this state.

Proviso.

Proceedings on application therefor.

852. SEC. 2. That upon said application being filed with such board having charge of sewers in such city, said board shall thereupon proceed to act upon the same in the same manner as is now provided by law for proceedings to construct sewers in such city.

Benefits to be assessed.

853. SEC. 3. That of a sum not exceeding one-half of the cost and expense of such improvement, including the cost of real estate required therefor as hereinafter provided, there shall be assessed by the officers charged with the duty of making assessments in such city upon the property benefited thereby, such portion of said sum not exceeding one-half of the cost of said improvement as will be equal to the amount of the benefits

acquired by said property, proportioned equitably to the benefits each piece of property shall be deemed to acquire; *provided*, that whenever the benefits of such improvement are extended to other property by the building of lateral sewers or connections, there shall in like manner be assessed upon such property a just portion of the costs and expenses of such improvement, which assessment may be made in connection with an assessment for such lateral sewers or as an independent assessment. Proviso.

854. SEC. 4. That the remainder of the costs and expenses of constructing such improvement, including the cost of real estate acquired therefor, shall be paid by the city, and such city may issue its bonds to the amount necessary to pay the same, which bonds shall be of such denomination, form, terms and conditions, and bear such rate of interest not exceeding six per centum per annum, as shall be determined by the legislative body of such city having charge of the finances thereof, and shall be executed under the common seal of the city and the signature of the mayor or other officers thereof. Excess of costs over benefits, how paid.

855. SEC. 5. That when any such improvement shall be located upon any land other than public highways or streets, and such land or any easement, right or estate therein, shall be necessary for the construction of said improvement, then it shall be lawful for said city to acquire by purchase the said land in fee-simple or by condemnation any easement or right therein if condemnation proceedings are necessary the proceedings for acquiring a right of way through such property shall conform to the proceedings now provided by law for the acquiring of land for the opening of streets in such cities; in case it shall be necessary to cross any lands of the state under water in construction of such improvement for the purpose of obtaining an outlet or otherwise, it shall be lawful to take and use such lands for that purpose, the money for such improvement may be raised by the sale of improvement certificates, or temporary loans issued according to the provisions of law governing said city, the issue and sale whereof, for the purpose of this act are hereby authorized. Lands may be acquired by purchase or condemnation. May sell improvement certificates to pay for same.

856. SEC. 6. That all benefits which may be received from assessments made for connections with lateral sewers shall be paid, when received, to the commissioners of the sinking fund of such city for the redemption and payment of the bonds issued under the authority of this act, and in addition thereto there shall be placed in the tax levy of such city annually a sum not less than two per centum and not more than three per centum of the principal of such bonds, and the same, when collected, shall be paid into the same fund for the purpose; *provided*, that this act shall not affect any existing suit. Benefits and sewer taxes when collected to be paid into sinking fund. Proviso.

(c) Of sidewalks only.

An act to authorize cities to order and regulate the construction of sidewalks and to provide for the payment of the expense thereof.

Approved May 10, 1884. P. L. 1884, p. 336.

857. SEC. 1. That the incorporated cities of this state shall have power through their several appropriate legislative bodies to pass ordinances for the regulation, construction and repair of sidewalks, and thereby to fix and determine the method in which sidewalks in such cities shall be constructed, repaired and maintained, the 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*, that no city shall be authorized to put down any patented sidewalk, but property-owners may construct at their own expense sidewalks of any material that may be allowed by general ordinance of such city. Cities may by ordinance regulate construction of sidewalks and provide for payment of cost thereof. Proviso.

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858. SEC. 2. That any such city may prescribe by general ordinance in what cases sidewalks shall be constructed, repaired or maintained at the expense of the abutting landowners; whenever in any city it shall hereafter become the duty of any owner of abutting lands under the ordinance of the city to construct or alter or repair any sidewalk or section thereof, the authorities of such city having charge of the street affairs of the city May prescribe by ordinance when abutting landowners shall construct sidewalks, &c.

may cause a notice in writing to be served upon the owner or occupant of said lands requiring the necessary specified work to said sidewalk to be done by said owner or occupant within a period of not less than thirty days from the date of service of such notice; whenever any lands are unoccupied and the owner cannot be found within the city, 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 city, 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 city; 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 city, upon filing due proof of the service or publication of the aforesaid notice in the appropriate department of the city, to cause the required work to be done and paid for out of the moneys of the city to the credit of the street department; the cost of such work shall be certified by the person having charge thereof to the person having charge of the collection of assessments in such city; upon filing the said certificate the amount of the cost of such work shall be and become a lien upon the said abutting lands in front of which such work was done to the same extent that assessments for local improvements are liens in such city under its charter or the general law, and shall be collected in the manner provided by law for the collection of such other assessments, and shall bear interest at the same rate; in addition thereto the city may have an action to recover the said amount against the owner of said lands, in any court having competent jurisdiction thereof; a certified copy of the aforesaid certificate shall in such action be prima facie evidence of the existence of a debt due from the said owner to the city.

Moneys received, how applied.

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

Repealer.

860. SEC. 4. That this act shall take effect immediately, and all acts inconsistent with the provisions of this act are hereby repealed.

Supplement.

P. L. 1885, p. 181.

Passed March 31, 1885.

Assessments for constructing sidewalks may be placed in annual tax bill.

861. SEC. 1. That in addition to the provisions of the act to which this is a supplement, and the powers and authority therein and thereby given, it shall and may be lawful for the authorities in such cities to place the assessments made against any property improved in the manner specified in said 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 cities; and it shall and may be lawful to anticipate the collection of assessments made for such improvements by temporary or other loans, in the same manner and to the same extent as is now lawful or may hereafter be lawful to anticipate the collection of taxes in such city or cities.

An act in relation to the repairing of sidewalks in the cities of this state.

P. L. 1889, p. 227.

Approved April 9, 1889.

Sidewalks, how repaired.

862. SEC. 1. That whenever it shall be determined by the common council of any city, by resolution, that it is necessary to repair, as hereinafter provided, any sidewalk, or any part or parts of the same, including the curb and gutter stones thereof, in any public street of said city, specifying in said resolution how and in what manner the said sidewalk or such part or parts thereof, and the said curb and gutter stones, shall be so repaired, it shall be the duty of the street commissioner, or other duly-appointed agent of said city, to serve upon each landowner whose lands adjoin or front upon the said sidewalk, or said part or parts thereof, in case he or she shall reside in said city, a certified copy of such resolution, together with a notice that if said sidewalk adjoining said lands, including

Duty of street commissioner.

said curb and gutter stones, shall not be so repaired by said owner within fourteen days next thereafter, the said repairs shall be made by said city at the expense of said owner; and that if such owner shall be unknown or non-resident, the said copy of said resolution and the said notice shall be posted conspicuously upon the front part of his or her said lands for fourteen days as aforesaid, and shall also be advertised for fourteen days in a newspaper printed and circulating in said city; and that due proof shall be made of the manner of such service and publication, by oath or affirmation, to be filed in the office of the city clerk; and that when such repairs shall be made by the said owner, they shall be made under the direction and control of the said street commissioner or other duly-appointed agent of the said city, and shall be subject in all things to his approval; and that when such repairs shall be made by said city, at any time after the expiration of said fourteen days, the actual cost thereof to each owner shall be ascertained and determined by said common council, and shall be duly entered upon their minutes, and shall be certified by the city clerk to the collector of taxes (by whatever name he may be known) of the said city; and that the said cost of the same shall then become and thenceforward be a lien upon the said lands of the said owner until the same shall be paid and discharged, with legal interest thereon; and that the amount of the same shall be added to and included in the next annual tax bill for city, county and state taxes against said owner, and shall be collected and enforced therewith, and in the same manner; and that said repairs to said sidewalk, including said curb and gutter stones, shall embrace the leveling of the same, in accordance with the established grade, and the resetting, relaying, renewing and replacing of all flag, curb and gutter stones, or any part or parts thereof, in such manner as shall conform to the said resolution, and to any ordinance or ordinances of said common council, and as shall be approved by said street commissioner, or said other duly-appointed agent of said city.

Repairs, how made.

Cost to be ascertained and remain a lien until paid.

An act authorizing cities of the first and second class to make necessary repairs to curbs and sidewalks and assess the cost thereof upon the property benefited.

Approved March 22, 1895. P. L. 1895, p. 555.

863. SEC. 1. That in cities of the first and second class of this state it shall be lawful for that municipal board or authority having control of the repairing of the streets of such city by resolution to require, in their discretion, any property-owner or property-owners to lay, alter, repair, relay, set or reset with curbstone or flagstone, and to supply and lay or set new curb or sidewalk, or to level the same in accordance with the established grade, in front of the property of any such owner or owners in accordance with specifications to be furnished by said board or authority, and when such repairs shall be made by the said owner they shall be made under the direction and control of the general superintendent of works of the board of street and water commissioners of such city or of such other officer or committee as shall have charge and control of the streets of such city, and shall be subject in all things to his or their approval; and if any such property-owner or owners shall neglect or refuse to make the repairs required by such board or authority, as herein authorized, for four weeks after notice shall have been served upon such owner or owners or mailed to the last-known post-office address of such owner or owners, or of his or their known agents, then such board or authorities shall cause to be published in their official minutes a declaration of their intention to proceed, which declaration, so published, shall be deemed a complete and final notice and a bar to any claim of insufficient service, and such board or authority may then proceed to make such repairs; and the amount so expended by any city in making such repairs in front of any lot or parcel of land shall be a first and paramount lien of the taxes imposed in any such city on said premises, and shall be collected by the comptroller or other proper officer of such city now or hereafter having

Repairs to sidewalks, how required in cities of first and second classes.

charge of the collection of assessments levied for the benefits received from opening, grading and paving streets in the same manner as such assessments are now or may hereafter be collected, or such comptroller or other officer may, in his discretion, report the amount due from each property-owner on account of such sidewalk improvement and then remaining unpaid, to that board or authority having control of the levying of taxes in such city, which said board or authority shall cause such sum or sums to be included in the annual taxes to be levied against such lot or lots so reported, and such sum or sums so included shall be collected by the collector in any such city in the same manner as general taxes are now collected in such city, and shall be subject to the same penalty for non-payment, including interest at such rate as may now or hereafter be fixed by law for arrears of taxes and including also the right on the part of the city to sell the property for non-payment.

What fund may be used for such repairs.

864. SEC. 2. That in order to carry out the provisions of this act the board or authority herein vested with power to make such repairs shall have power to expend a portion or the whole of any fund heretofore set aside in any such city for said purpose, and if such fund shall become exhausted by reason of the making of such repairs, said board or authority shall be privileged to expend out of any license moneys set aside in any such city for the repairing of paved streets such further sum or sums as may be necessary for said purpose.

How assessments when collected shall be disposed of.

865. SEC. 3. That when the assessments herein authorized to be levied for the making of such repairs shall be collected, the treasurer or other proper officer of such city shall credit the amount so paid, first to the account for the repairing of paved streets, until the full amount taken therefrom for the purposes of this act shall be restored, and the balance to such account as may exist in such city for the making of repairs to sidewalks, et cetera.

Repealer.

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

(*d*) *Of streets, sewers, sidewalks and parks.*

An act relating to the improvement of streets and the construction of sewers in the cities of this state.

P. L. 1882, p. 190.

Passed March 27, 1882.

Cities empowered to raise capital fund for improvement of streets nd construction of sewers.

867. SEC. 1. That it shall be lawful for the common council or other legislative or governing body of any city in this state, whenever in its judgment such action shall seem judicious, to raise in its annual tax ordinance a capital fund, to be used exclusively in the improvement of its streets and the construction of necessary sewers therein, which said fund so raised in the several cities of the state shall not exceed, in any one year, the following amounts, viz.: in cities having a population of one hundred thousand inhabitants and over, a sum not exceeding seventy-five thousand dollars; in cities having a population of fifty thousand and not more than one hundred thousand, a sum not exceeding twenty-five thousand dollars; in cities having a population of twenty-five thousand and not more than fifty thousand, a sum not exceeding ten thousand dollars; and in cities having a population less than twenty-five thousand, a sum not exceeding five thousand dollars. (*a*)

(*a*) After a street had been repaved under an ordinance of the city, which stated that property benefited would be assessed for such repavement, and which was duly published according to the city charter, property-owners cannot defeat the assessment on the ground that the tax ordinance did not mention the particular streets to be repaved, and the sum to be spent on each. *Jelliff* IV. *Newark*, 19 *Vr.* 101. The act is a general law although it applies only to cities. *Ib.* The fact that a street has been once paved, and property benefited thereby has been assessed for the cost thereof, does not render invalid an assessment upon the same property for the repaving of the street with an improved pavement. *Ib.* The direction in the act that the moneys realized from assessments for street improvements, which have been first paid for by general tax, shall be used in making other street improvements is constitutional, and does not invalidate the assessments. *Ib.* The provisions of the act that assessments for improvements under it shall be levied and collected in conformity with existing laws in force in the city where the improvements were made, are not unconstitutional as provisions of a special or local character embraced in a general law. *Ib.* The judgment of the commissioners of assessments as to the area over which special benefits extend, and as to the amount of such benefits, will prevail, unless there be very convincing evidence against it. *Ib.* If a general tax be levied in a city to raise money to pay for a street improvement, under a law which provides that lands specially benefited by the improvement shall be assessed therefor, the fact that part of that tax was levied on land will not relieve the land from assessment for special benefits. *Ib.* Affirmed by court of errors and appeals, 20 *Vr.* 239. See *Bacon* v. *Elizabeth*, 22 *Vr.* 246.

868. SEC. 2. That so much of such capital fund raised as aforesaid as the common council or other legislative or governing body of any such city shall determine to use for that purpose, may be applied each year to the paving or repaving of the streets of any such city, and such paving or repaving may be done without the consent or request of the owners of property fronting on said projected improvement. Capital fund raised, how applied.

869. SEC. 3. That before any ordinance providing for the improvement of streets and the construction of sewers as aforesaid shall be presented for the action of the legislative or governing body of any city, all legal requirements existing in the charter of such city with respect to the notice of intention to do said work shall be in all respects complied with. Legal requirements to be complied with.

870. SEC. 4. That if the common council or other legislative or governing body of any city in this state shall determine to raise in its annual tax ordinance the sum hereby authorized, or any part thereof, for any or all of the purposes herein designated, the said ordinance shall specifically state how much of said moneys so raised shall be applied to each designated improvement; and the amounts so set apart for a particular and specified improvement shall not be applied to any other use, nor exceeded in any year. [See Sec. 875, *post.*] Sum authorized and set apart for improvements to be designated by ordinance.

871. SEC. 5. That assessments for benefits from any such improvements (except as hereinafter stated) shall be made, levied, collected, and be a paramount lien upon the lands and real estate specially benefited thereby, in conformity with the provisions of existing law in force in such city with respect to making and collecting assessments therein. Assessments to be a lien on lands.

872. SEC. 6. That all moneys collected from assessments for benefits as aforesaid shall be set apart and kept separate from other funds of said city, to be used as an additional fund for similar improvements as its common council or other legislative or governing body shall from time to time determine; and assessments for benefits from such improvements shall be made, levied, collected, and be a first lien upon the lands and real estate specially benefited thereby, in conformity with the provisions of existing law in force in such city with respect thereto; and the moneys collected therefrom shall be expended solely for similar improvements as its legislative or governing body shall deem judicious; and so from time to time such improvements may be made, and assessments which shall be a prior lien on the lands specially benefited may be made, collected and applied, under the provisions thereof. Moneys collected from assessments for benefits, how applied.

873. SEC. 7. That whenever any sidewalk or sidewalks in any city shall, in the judgment of its council or other governing body, need flagging, reflagging or repairing, the street commissioner thereof, or other designated officer, shall notify in writing the owner or owners of the land and real estate in front of which said improvement is required, personally or by leaving the same at his residence, if said owner or owners reside in said city and can be found, that said sidewalk must be flagged, reflagged or repaired by said owner or owners within thirty days from the service of said notice; if said owner or owners be non-resident, then said notice shall be served on his or their agent, if he can be found, and if not, the same shall be posted conspicuously on the premises; and if said work is not done by the said owner or agent as required by said notice, then the said city shall proceed to do said work, which may be by resolution, without notice of intention, and its surveyor, or other officer designated for the purpose, shall ascertain the cost thereof, and shall assess on said property in front of which said work is done, the whole expense of doing the same; and said assessment, when filed in the office of the comptroller or other person authorized to collect assessments therein, shall be a first lien on said property so specially benefited, and shall be collected and enforced as other assessments are collected and enforced in said city. Proceedings to require repaving of sidewalks.

Supplement.

P. L. 1886, p. 303.

Passed April 27, 1886.

Capital fund may be raised and used for opening streets.

874. SEC. 1. That it shall and may be lawful for the common council or board of aldermen having charge of the opening of streets in cities of this state, in the mode and manner, and according to the terms, conditions and requirements contained in the act to which this is a supplement, to use the funds therein authorized to be raised, or such part thereof as the common council or other legislative or governing body shall determine, for the purpose of opening streets therein; and it shall and may be lawful for cities of this state to raise, in the manner prescribed in said act, for the purposes therein designated and herein authorized, any sum or sums not exceeding one hundred and fifty thousand dollars.

How capital fund to be designated in ordinance.

875. SEC. 2. That when any sum or sums of money shall be placed in the tax ordinance of any city for either of the purposes specified in the said act, or authorized by this supplement, that the particular purpose for which the same is intended shall be designated therein, that is, whether it be for the construction of sewers, the opening of streets or the improvement thereof; and it shall not be necessary to designate each particular improvement or work, but only the class to which it belongs, in order that the funds raised by taxation, either in the tax ordinance or by assessments, may be kept separate as provided in said act.

Supplement.

P. L. 1890, p. 468.

Approved June 13, 1890.

Temporary certificates or bonds may be issued in cities of first class for paving and repaving streets.

876. SEC. 1. That when, in any city of the first class, it shall appear by the certificate of the treasurer and city surveyor that the bonded debt of such city does not exceed fifteen per centum of the assessed value of the real and personal property therein, as shown by the records of such city, and that more than one-half of the streets of such city are unpaved, and that one hundred thousand dollars has been placed in the tax levy for the current year for the paving and repaving of streets in pursuance of this act, which certificate or certificates shall be filed in the office of the city clerk of such city within sixty days after the passage of this act, it shall be the duty of common council or other governing body to issue temporary loan certificates or bonds for a sum not less than three hundred thousand dollars and not exceeding five hundred thousand dollars, and to negotiate the same at the best allowable price, and place the proceeds of such certificates or bonds in the city treasury as part of the capital fund provided for by the act to which this is a supplement, and to use the same exclusively for paving and repaving of streets in the manner therein provided.

How such temporary obligations shall be made payable.

877. SEC. 2. That the certificates or bonds issued under this act shall be made payable at the rate of one hundred thousand [dollars] each year from the date of the first issue; and it shall be the duty of the common council or other governing body of such city each year, either by the general tax levy or by an appropriation to that specific use of a sufficient sum from the license fees received therein, to produce a fund to pay the certificates or bonds so issued falling due in that year and for the interest on those outstanding and unpaid.

An act concerning the construction, care and improvement of the public ways, parks and sewers in certain of the cities of this state, and assessments for the same.

P. L. 1888, p. 29.

Passed February 14, 1888.

Control of streets, parks and sewers vested in whom.

878. SEC. 1. That in each of the cities of this state, excepting cities of the first class, the opening, construction, care, cleaning, repairing, alteration and improvement of the roads, streets, avenues, lanes, alleys and parks, and of the public sewers and drains within the corporate limits thereof, shall be vested exclusively in the common council or board of aldermen of such city, who shall have power to make, establish, modify

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amend and repeal ordinances, rules, regulations and by-laws in relation to the same. (*a*)

Street commissioners to be appointed.

879. SEC. 2. That the common council or board of aldermen in each of the cities aforesaid shall from time to time appoint an officer to be known as a street commissioner, who shall have the charge and superintendence, under the direction of said common council or board of aldermen, of all the operations mentioned in the first section of this act, and whose duties, compensation, term of office and official bond shall be regulated and prescribed by ordinance.

Powers of former officers abolished.

880. SEC. 3. That any officer, commission or board (other than the common council or board of aldermen) now possessing any of the powers mentioned in the first section of this act in any of the cities aforesaid shall, as soon as this act shall take effect in such city, cease, determine and be abolished; and all assessments then remaining unpaid for street or sewerage improvements in such city shall be collected for the use of said city by the collector or other officer having charge of the collection of taxes, and he shall be vested with the same power and authority for the collection of such assessments, with the interest and costs accrued thereon, by sale of land or otherwise, theretofore possessed by the officer, board or commission so as aforesaid abolished. (*b*)

Assessments, how collected.

Assessments to be made upon lands specially benefited.

881. SEC. 4. That in order to provide for the expense of opening, constructing or improving any of the public ways or sewers of any of said cities, the common council or board of aldermen shall have power to cause assessments to be made upon lands specially benefited thereby in proportion to and not exceeding the peculiar benefit that each parcel so assessed shall be deemed to have received, the balance thereof to be paid by the city at large, which assessments having been confirmed, and, if need be, corrected by the said common council or board of aldermen upon public notice given to all parties interested therein and public hearing of all objections made thereto, shall be a lien upon said lands with interest at six per centum per annum from the date of confirming the same with subsequent expenses of collection paramount to any mortgage or other incumbrance on said lands, and notwithstanding any error in naming or failure to name the owner of said lands; *provided*, that said lands shall, in the said assessment, be sufficiently described, and shall be recorded by the collector or other officer having charge of the collection of taxes in said city in a book to be provided at the expense of said city for that purpose, and the record thereof shall be open to the inspection of all persons at all proper times.

Assessments to be a lien.

Proviso.

Notice of confirmation of assessments to be given.

882. SEC. 5. That notice of the confirmation of such assessment and requiring payment thereof to be made at his office within sixty days from the date of confirming the same, shall be given by the said collector, or other officer having charge of the collection of taxes, by publishing such notice for four weeks, at least once in each week, in two of the newspapers published in said city, if there be two newspapers there published, and if not, then in one such newspaper, and after the expiration of said period of sixty days the said common council or board of aldermen may, by resolution, direct that the said collecting officer proceed to collect such of the said assessments as shall not have been paid, by sale of the lands upon which the same are liens respectively, which sale shall be made by the said collecting officer in the like manner and upon the like notice and advertisement for the like period, and with the like effect, as sales are or may be made in such city for unpaid taxes.

Making and collecting assessments, how provided for.

883. SEC. 6. That the common council or board of aldermen shall, from time to time, by general ordinance, provide for all such matters touching the making, confirming and collection of assessments for the purposes aforesaid as are not provided for in this or some other statute applicable thereto.

(*a*) *Held*, that for the purposes of this legislation the classification was legitimate, and the act was not in conflict with the constitutional provision on the subject of local or special laws. *Warner* v. *Hoagland*, 22 *Vr.* 62.

(*b*) *Held*, that abolishing the offices of other officers having the jurisdiction and powers conferred on the common council or board of aldermen was cognate to the object of the act, and that the purpose to abolish such offices need not be expressly mentioned in the title of the act. *Warner* v. *Hoagland*, 22 *Vr.* 63.

Repealer.
Act to be submitted to voters.

884. SEC. 7. That all acts and parts of acts, both general and special, inconsistent with this act, be and the same are hereby repealed; *provided, however*, that none of the foregoing provisions shall take effect in any city until the acceptance thereof shall have been submitted, by resolution of said common council and board of aldermen, in its discretion, to popular vote, at any regular charter election or general election to be hereafter held in such city, of which submission such notice shall have been given by the city clerk as said resolution shall direct; and the legal voters of said city may, at such election, decide upon the acceptance or rejection of this act, by ballots upon which shall be written or printed the words "for the new law" or "against the new law," or some like phrase, expressing assent or dissent to this act, which ballots shall be cast as other ballots are cast at such election, and may be printed or written upon the same tickets upon which are contained the names of the candidates voted for, and said ballots so cast for or against this act shall be counted and the result thereof returned by the election officers, and a canvass of such return had, in the same manner and at the same time as in case of ballots for candidates voted for at such election, and the acceptance or rejection of this act as so determined shall be declared and entered upon the minutes of said common council or board of aldermen accordingly, and if there shall be a majority of such ballots in favor thereof, but not otherwise, this act shall take effect in such city immediately; *provided*, that the acceptance of this act may be in like manner submitted as aforesaid at successive elections, at the discretion of the common council or board of aldermen, until the same shall be accepted. (*a*)

Proviso.

An act to provide for street and sewerage improvements in the cities of this state, without increase of municipal indebtedness therefor.

P. L. 1889, p. 246.

Approved April 10, 1889.

Owners of one-third of frontage may petition for estimate of cost for street and sewer improvements.

885. SEC. 1. That whenever a petition in writing shall be presented to the common council or other governing body of any city of this state, signed by the owners of one-third of the lineal frontage of any street or highway, or portion thereof, in such city, requesting that an estimate be made of the probable cost and expense of grading, curbing, graveling, macadamizing or paving any such street or highway, or portion thereof, or the construction of any public sewer or drain within the same; and whenever, also, such governing body shall, without such petition, deem it advisable to have such estimate, it shall be lawful for such governing body to cause such estimate to be made as soon thereafter as practicable, by the city surveyor of said city, or other proper person, and placed on file in the office of the clerk of such city for public information, which said estimate may include two or more methods of construction as to plans, materials and work.

When city shall advertise for proposals to make improvement.

886. SEC. 2. That whenever, after twenty days shall have expired from the time of filing any such estimate, a petition in writing shall be presented to any such governing body, signed by the owners of two-thirds of the lineal frontage of any street or highway, or portion thereof, in any such city, for the grading, curbing, graveling, macadamizing or paving of any such street or highway, or portion thereof, or the construction of any public drain or sewer within the same; and whenever, also, any such governing body, without such petition, shall deem it advisable to grade, curb, gravel, macadamize or pave any street or highway, or portion thereof, within any such city, or to construct any public drain or sewer within any such street or highway, or portion thereof, it shall be lawful for such governing body to direct, by ordinance or by resolution, that the same shall be so done, and prescribe the manner and detail of such improvement; and thereupon it shall be the duty of the city clerk of such city immediately to cause an advertisement to be inserted in two of the newspapers

Advertisement for proposals.

(*a*) *Held* (1), that under this section there was not a delegation of legislative power; and (2), that the law was not made thereby a local or special law. *Warner* v. *Hoagland*, 22 *Vr.* 62.

published and circulating in said city, for one week, for sealed proposals for the said work, to be filed with said clerk, within twenty days from the first publication of said advertisement, which advertisement shall state that said improvement is to be made under the provisions of this act, and the proposals received therefor shall be opened in the presence of said governing body, who shall award the contract for the said work to the lowest responsible bidder, whose bid shall not exceed said estimate, and who shall thereupon give sufficient bond, to be approved by said governing body, for the faithful performance of his undertaking; and in case there shall not be two newspapers published in any such city, then such publication may be made in any two newspapers published in the county wherein such city may be located, and circulating in said city, that now are or hereafter may be designated by law for the publication of the laws of this state.

Improvement not to create a general debt against city.

887. SEC. 3. That no work or improvement done or made under this act nor any contract therefor shall create a general debt of said city, or be paid for otherwise than by the moneys collected from assessments hereinafter mentioned or from some existing fund in the treasury of such city at the time of awarding said contract and applicable to such purpose, or from appropriations to be voted by the qualified voters of such city for such work or improvement in manner authorized by law; and every such fund so applicable to or voted for such purpose shall, from the time of awarding said contract and from the time of voting the same, be thereby set apart and pledged for the satisfaction thereof, and shall not be thereafter diverted or applied to any other use until the payments required for the said work and improvement shall have been fully discharged; and all such work and improvement shall be performed under the supervision of the street commissioner or other suitable officer or officers of such city or other capable person or persons to be appointed by the governing body of such city, who shall certify in writing to said governing body that such improvement and work have been fully and properly completed as required; and such governing body shall be satisfied that said work and improvement have been so completed, and shall by resolution approve the same before payment for the same shall be made.

Damages and benefits to be assessed.

888. SEC. 4. That if in the judgment of such governing body any improvement made under this act shall be likely to benefit and increase or injure the value of any lands and real estate in the vicinity thereof, it shall apply to the circuit court of the county wherein such city may be situated for the appointment of three commissioners to estimate and assess such benefits and damages, of the time and place of which application notice shall be given by ten days' publication in two newspapers published and circulating in such city; and in case there shall not be two newspapers published in any such city, then in any two newspapers published in the county wherein such city may be located, and circulating in said city, which now are or hereafter may be by law designated for the publication of the laws of this state; at which time and place as said court may designate such court shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of the city making such application, to estimate and assess said benefits and damages, and the said court shall have power to remove any commissioner and appoint another in his place, and also fill any vacancy that may occur in the office of any commissioner from any cause.

Commissioners to take oath.

889. SEC. 5. That the said commissioners shall, before entering upon the duties required of them by this act, take and subscribe before some officer authorized to administer the same, an oath or affirmation that they shall 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 which they are hereinafter required to make.

Commissioners to give notice of meeting, examine witnesses, &c.

890. SEC. 6. That the said commissioners having so qualified, shall give two weeks' notice in two newspapers published and circulating in such city, and in case there shall not be two newspapers published in any such

city, then in any two newspapers published in the county wherein such city may be located, and circulating in said city, which now or hereafter may be designated by law for the publication of the laws of this state, 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 as such commissioners may appoint by adjournment, the said commissioners shall attend and give public hearing to all persons in interest who may be present and desire to be heard; and the said commissioners shall have power to examine witnesses under oath, to be administered by any one of them, and to compel the attendance of such witnesses, by subpœnas to be issued by them, and to enter upon and view any premises that they may deem necessary, and to adjourn from time to time, in their discretion; they shall use diligent efforts to ascertain the names of the owners of the lands and real estate benefited or damaged by such improvement, and 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 from the said report, shall not be deemed to invalidate the said assessment for benefits or damages, or any part thereof, nor to be a bar to the collection of the same.

Persons interested to have public hearing.

891. SEC. 7. 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 or injured by such improvement, the said commissioners shall make a report, in writing, of their estimates and assessments, to such governing body of said city, accompanied by a survey and map prepared by the city surveyor of such city or some other suitable person appointed by said governing body, showing the lots or parcels of land and real estate peculiarly benefited and damaged by such work and improvement; the said report shall state the cost of the whole work and improvement, the names as far as ascertained of the owners of the said lots or parcels of land and real estate and the amount of the assessment to each owner for each of said lots of land for said benefits and damages, which assessment for benefits shall be, in each case, in proportion, as near as may be, to and not exceeding the advantage which each of such owners shall be deemed to have acquired by such improvement.

Proceedings after the coming in of commissioners' report.

892. SEC. 8. That upon the coming in of such report signed by such commissioners, or any two of them, such governing body shall cause due and sufficient notice to be given in such two newspapers published in such city or county and circulating in said city, of the time and place of hearing any objections that may be made to such assessment, and after hearing and considering any matter that may be alleged against the same, the said governing body shall confirm the said report, or shall refer the same back to the same commissioners for revision and correction, or may refer the same to new commissioners, to be appointed by the said court, forthwith to reconsider the subject-matter thereof, and the said commissioners to whom the said report shall be so referred shall return the same corrected and revised, or a new report to be made by them in the premises, to the said governing body, without unnecessary delay; and the same being so returned shall be confirmed or again referred in manner aforesaid, as right and justice shall require, and so from time to time until a satisfactory report shall be made or returned, which the said governing body shall confirm; such report, when so confirmed, shall be final and conclusive as well upon said city as upon the owners of any lands and real estate affected thereby; it shall not be necessary to delay the appointment of said commissioners or the making of report by them as aforesaid until the completion of the improvement for which such assessment shall be made, but no such report or assessment shall be confirmed until it shall have been certified to the said governing body by the officer having charge of the said work that the same has been fully and properly completed as required, and said governing body shall have approved the same as provided in the third section of this act; the said governing body shall thereupon cause a certified copy of such report and the accompanying map to be forthwith delivered to the officer of such city charged with the duty of collecting

taxes, who shall record the same in a book to be provided for that purpose at the expense of such city, and which shall be open to public inspection at all proper times; and such assessment shall, from the time of filing such transcript thereof, be a lien upon the lands and real estate therein mentioned paramount to any mortgage or other incumbrance previously existing, and notwithstanding any alienation or transmission of title to said premises by the owner thereof.

Payments, when to be made.

893. SEC. 9. That the said officer having in charge the collection of taxes, upon receiving the said transcript of said report and map and confirmation thereof, shall immediately give notice thereof by mail to each person against whom there shall be any such assessment, if his address can be ascertained, and by publishing the same in two newspapers circulating in the said city and published in the county wherein said city shall be situated, for two weeks, which notice shall require payment of the amounts assessed by the owners of said land respectively, to be made to said collecting officer, the one-half thereof within sixty days after the date of the first publication of the said notice, and the remaining one-half thereof within ninety days after the date of said first publication.

Lands may be sold for payment of assessments.

894. SEC. 10. That if any such assessment shall not be paid within said term of ninety days from the said date of first publication, the said collecting officer shall proceed to collect the same, together with interest on said assessment at the rate of six per centum per annum from and after ninety days from the said date of first publication and the expenses of sale, by selling the said lands affected thereby for the like term, upon the like advertisement and with the like effect as in case of sales for taxes in said city.

Contractors to look to assessments for their compensation.

895. SEC. 11. That in contracts made under and by virtue of this act, the city shall in no case be liable to any claim for the amounts to be collected upon such assessments from lands and real estate benefited, but the contractors shall in all cases look wholly to such assessments to the extent thereof for their compensation, and every such contract shall contain a clause that it is subject to the provisions of this act; but so much of the expense of any such work and improvement as shall remain after such assessments made for benefits, shall be borne and paid by such city, excepting that the liability of such city therefor shall be restricted to the amounts which shall have been, or may be, from time to time, appropriated for the same, as specified in the third section of this act.

Moneys collected from assessments a separate fund for improvements.

896. SEC. 12. That the moneys arising from assessments and appropriations under this act shall constitute a fund, which shall be kept separate from other moneys of said city, and shall be used and paid out only for the improvement of streets and construction of sewers in such city under this act, and upon orders specially drawn against the same, designating in each case the improvement on account of which such order is given, and the moneys arising from each assessment shall be first appropriated to the payment for the improvement for which such assessment was made.

Private lands may be acquired.

897. SEC. 13. That in case it shall be necessary, for the construction of any sewer or drain under this act, to take or acquire any private lands through which the same may be laid, or any estate or easement therein, it shall be lawful so to appropriate the same; and the said commissioners in such case shall give notice of their intention to take the same in the manner prescribed in the sixth section of this act, and shall give public hearing to all persons in interest in the manner in said section directed, and shall include in their report hereinbefore directed to be made a description and map thereof, with the name of the owner or owners, and an estimate and valuation of the lands or estate or easements therein necessary to be acquired, and of the damages accruing therefrom to such owner or owners; and the said governing body shall give such notice of the time and place of hearing any objections that may be made to said report and proceedings as directed in the eighth section of this act, and shall consider the same and deal with said report and subsequent reports in respect thereto as in said section is directed respecting assessments; shall consider the same, and, having heard any objections that may be made thereto,

shall confirm such report or again refer the same, and like proceedings shall be had as in case of the report of assessments for benefits as aforesaid until the same shall be confirmed; and the damages so finally assessed shall be included in the expense of said improvement.

Compensation of commissioners.

898. SEC. 14. That each commissioner appointed under this act shall be entitled to receive three dollars for each day that he shall be actually engaged in the performance of the duties herein required of him, which sum shall be paid by said city, and shall be in full for all charges or expenses of such commissioner, and shall be included in the expense of said improvement.

An act to provide for the repaving, repairing and improving of paved streets, and reconstruction of sewers in cities of this state.

P. L. 1895, p. 304.

Approved March 14, 1895.

License fees may be appropriated for improvement of streets and construction of sewers.

899. SEC. 1. That it shall be lawful in any city of this state for the board having charge and control of the finances thereof to appropriate and set apart annually, with the consent of the mayor, for the period of five years from the date hereof, out of the license fees received in such city for licenses to sell spirituous or malt liquors, one-half thereof for the repaving, repairing and improving of paved streets and the reconstruction of sewers in such city, and said moneys so appropriated shall be disbursed, applied and expended for such purposes exclusively by the board or department of such city charged with the duty of paving and repairing streets and the reconstruction of sewers, and by no other board and authority, nor for any other purpose whatever.

Main thoroughfare may be improved.

900. SEC. 2. That the said board or department of such city may, by unanimous vote, at any time, out of said funds when so set aside, cause any part of a main thoroughfare in such city to be improved or paved, or both, although the same may not have theretofore been paved.

Repealer.

901. 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.

3. WATER-SUPPLY.

An act to enable cities to supply the inhabitants thereof with pure and wholesome water.

P. L. 1876, p. 366.

Approved April 21, 1876.

Cities may take and convey water from sources, or purchase water works, &c., from any water company.

902. SEC. 1. That any city within this state be, and it is hereby authorized, in the manner hereinafter provided, to take and convey from such source or sources as may be practicable, into and through said city, such quantity of pure and wholesome water as may be required for domestic and other purposes by the inhabitants residing within the corporate limits of said city; and to this end, the said city is hereby authorized and empowered, in the corporate name of said city, to purchase of any water company owning water works within said city, which said company is hereby authorized to sell and convey all the real estate, personal property and works, and all the corporate rights, powers, franchises and privileges of said company, for such sum as may be mutually agreed upon by and between the said city and the said water company; and upon the due execution of the conveyance therefor, the said real estate, personal property and works, and corporate rights, powers, franchises and privileges shall pass to and vest in the said city in as full and ample manner as the same now are or heretofore have been held and enjoyed by the said water company; and that the said city may, in the name and in behalf of said city, purchase, take, hold and enjoy, and convey and dispose of all and such other real and personal estate as may be necessary for the purposes of this act, and may construct and maintain canals, aqueducts, reservoirs, basins, stand pipes, buildings, machinery and appurtenances of every kind that may be necessary and useful for such purposes, with full power and authority to lay and relay

water pipes under any avenue, road, railroad, highway, street, lane or alley within the said city. (*a*)

Proceedings in case of any disagreement between city and water company or owners of lands required.

903. SEC. 2. That in case of any disagreement between the said city and the said water company, or the owner of any other land or water rights which may be required for the said purposes, or affected by any operation connected therewith, as to the amount of compensation to be paid to the said water company, or to such other owner; or in case any such owner shall be an infant, or a married woman, or non compos mentis, or absent from this state, the circuit court in and for the county wherein said city is situated, shall, on application of either party, nominate and appoint three disinterested and competent persons as commissioners to examine the real estate and personal property of the said water company, or any other land or water rights, and estimate the value thereof, or damages sustained thereby, and who shall, after reasonable notice to the parties of the time and place when and where they will be heard in relation to the matter, and after hearing and examining the parties, and their respective witnesses, under oath or affirmation, and viewing the property, thereupon proceed without delay to make their report thereon, and deliver the same to the said court at the next term thereof which may be held in the said county.

Commissioners to be appointed.

In case of no appeal, payment to be made.

904. SEC. 3. That whenever such report shall be confirmed by said court, the said city shall, within two months thereafter, in case of no appeal therefrom, or from the determination of said appeal, pay or cause to be paid to the said water company, or to such other owner (as the case may be), or to such person or persons as the said court may direct, the sum mentioned in said report as the value or damages therefor, in full compensation for the real and personal estate of water company aforesaid, or for any other property so required, or for the damages so sustained, as the case may be; and thereupon the said city shall become seized absolutely and in fee of said real and personal estate of the said water company, or of such other property so required, and shall be thence discharged from all further claims by reason of such damage; but no claim shall be made or allowed after the expiration of three years from the time the land is taken or the damage suffered; *provided, however*, that in case the said city, or the said water company, or owner or owners of the said lands or water works, shall be dissatisfied with the report of the said commissioners, and shall apply to the justice of the said circuit court at the same term after the filing of the said report, the court shall have the 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, if required, a jury to be struck, and a view of the premises to be had, and the said issue to be tried at the next circuit court to be holden in the said county, 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 water works and damages sustained; and if they shall find a greater sum than the said commissioners shall have awarded in favor of the said owner or owners, then judgment thereon, with costs, shall be entered against the said city, 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 said city shall have offered, or the said commissioners awarded, then the said costs to be paid by said applicant or applicants, and either deducted out of the said sum found by the said jury, or execution awarded therefor, as the court shall direct; *provided*, that such application to the court shall not prevent the said city from taking the said land upon the filing of the aforesaid report and tender of the sum awarded.

Proceedings on appeal.

Proviso.

Appointment of engineers, surveyors, officers, agents, &c.

905. SEC. 4. That it shall be lawful for the said city, by its board of aldermen, council or other legislative body, to elect or appoint any and all engineers, surveyors, officers, agents, employes or committeemen that they may deem necessary or convenient for accomplishing the purposes con-

(*a*) The amount of debt which a city can incur in the purchase of water works under this act and the supplement (Secs. 918-922, *post*), is not restricted by a limitation of indebtedness contained in the city charter. *Stroud* v. *Consumers' Water Co.*, 27 *Vr.* 422. A city, under these acts, can purchase the water works of more than one company. *Ib.* See *Hackensack Water Co.* v. *Hoboken*, 22 *Vr.* 220. *Slingerland* v. *Newark*, 25 *Vr.* 62.

templated by this act, to define their duties, regulate their compensation and provide for their removal, and that the said engineers, surveyors, officers, agents, employes or committeemen so appointed or elected as aforesaid are hereby authorized and empowered to enter upon any land or water for the purpose of making any and all surveys and examinations necessary under this act, and at all seasonable hours to enter any dwelling or other place where the water so furnished is taken or used, and where unnecessary waste thereof is known or suspected, and examine and inquire into the cause thereof; and the said engineers, surveyors, officers, agents, employes or committeemen shall have full power to examine all service pipes, stop-cocks and other apparatus connected with the water-supply or drainage works, for the purpose of ascertaining whether the same are of the character and dimensions, and fixed in the manner directed by the ordinance or ordinances of the said city regulating the same; and if any person or persons shall refuse to permit such examinations or oppose or obstruct any such engineers, surveyors, officers, agents, employes or committeemen in performance of such duty, he, she or they so offending shall have the supply of water shut off until the required examination is made and such alterations and repairs as may be found necessary shall be completed. (*a*)

Advertisement to be made for proposals for work when expenditure exceeds $500.

906. SEC. 5. That whenever any work to be performed or materials to be furnished under the provisions of this act may involve an expenditure of any sum exceeding five hundred dollars, the said board of aldermen, council or other legislative body of said city shall designate a time when they will meet at their usual place of meeting, to receive proposals in writing for doing such work or furnishing such materials, as the case may be, and shall thereupon order the clerk or some other officer of said city to give notice thereof, by advertisements put up in ten of the most public places of the said city, and by advertising the same in one or more newspapers printed and published in said city, at least two weeks before the time of such meeting, which advertisements shall specify the dimensions and quality of the work to be done or materials to be furnished; that all such proposals shall be publicly opened in the presence of those who choose to attend, that not more than one proposal shall be received from any one person for the same contract, directly or indirectly, and that said body shall be empowered to reject any or all of said proposals, and to advertise for new proposals, and to accept such as shall, in the opinion of a majority of said body, be deemed most advantageous for said city; *provided*, the contract for such work and materials, when awarded, shall be awarded to the lowest bidder, and to enter into and compel the performance of all necessary and proper contracts for the doing of such work or furnishing such materials. [See Sec. 928, *post.*]

Proviso.

Contracts to be in writing. How executed.

907. SEC. 6. That all such contracts shall be in writing, and of each contract, two copies shall be taken, and each copy shall be read before the said body; and if approved by a majority of the whole number thereof, such approval shall be indorsed upon each of said copies by the president of the said body, and be by him signed as such president, and then such contracts, so approved, indorsed and signed shall be executed by the mayor of the said city, on behalf of and in the name of the said city, and under the common seal thereof, and that one of said copies, when fully executed by the parties thereto, shall be deposited with the treasurer of said city; and that no party shall be allowed to enter upon any work or furnish any material until such contract shall have been so read, approved, indorsed, executed and deposited as aforesaid; and that every person who shall enter into any such contract with the said city shall give satisfactory security for the faithful performance of his contract according to its terms, with at least two sureties, to be approved by said common council.

Contractor to give security.

908. SEC. 7. [Amended by Sec. 918, *post.*]

Treasurer to keep regular books of account.

909. SEC. 8. That the treasurer of said city shall keep regular books of account, containing the receipts and expenditures under this act, and all such books shall be open at all times to the examination of any member of

(*a*) See *Horan* v. *Lane*, 24 *Vr.* 275.

the legislative body of said city and of any person or persons appointed by said body for that purpose; that the said treasurer shall once, at a time fixed by said body, in each and every year, make a detailed statement to the said body of such receipts and expenditures, an abstract of which shall be published with the annual statement of said treasurer.

Annual statement to be made.

910. SEC. 9. That the said board of aldermen, council or other legislative body of said city shall have the power and they are hereby authorized to make, ordain and establish all such ordinances, resolutions and regulations as said body may deem necessary and proper for the distribution, supply, use and protection of the said water and the safety, security and protection of the buildings, machinery, canals, aqueducts, reservoirs and other works and appurtenances thereto, and for fixing and collecting the water rents or prices for water, and for imposing penalties in addition to cutting off the water for the non-payment thereof, and that they may erect such number of public hydrants and fire plugs, and in such places as they shall see fit, and direct in what manner and for what purposes the same shall be used.

Board of aldermen, &c., may make rules and regulations.

911. SEC. 10. That the owner and occupier of any house, tenement, building or lot, shall each be liable for the payment or the price or rent as fixed by the said board of aldermen, council or other legislative body of said city for the use of the water by such owner or occupier, and such price or rent so fixed shall be a lien upon said house, tenement, building or lot, until the same shall be paid and satisfied; that said body shall have authority to require payment in advance for the use or rent of water furnished by said city in or upon any building, place or premises, and in case prompt payment of any water rent or rents shall not be made when the same become due, the water shall be shut off from such building, place or premises, and shall not be again supplied to said building, place or premises until such arrears with interest thereon shall be fully paid, and it shall and may be lawful for the said body to give notice for one month, by advertisements in a newspaper printed and published in said city, requiring the owners or occupants of such houses, tenements or lots to pay such water rents so remaining due and unpaid thereon, and if the same are not paid, such houses, tenements and lots will be sold at public auction, at a day and place to be specified therein, for the lowest term at which any person will offer to take the same in consideration of paying the amount of the water rent, with interest thereon due on the same, and the expenses of such advertisement and sale, and if, notwithstanding such notice, the owners or occupants shall refuse or neglect to pay such water taxes, and the interest thereon, and the expenses of the said advertisement, then it shall be lawful for the said body to cause such houses, tenements or lots to be sold at public auction for a term for the purposes and in the manner expressed in said advertisement, and to give a declaration of such sale to the purchaser thereof, under the common seal of the said city, and such purchaser, his executors, administrators or assigns, shall, by virtue thereof and of this act, lawfully hold and enjoy the same for his and their own proper use against the owner or owners thereof, claiming under him or them, until his term shall be complete and ended; and that such purchaser shall be at liberty, at or before the end of his term, to remove the buildings and materials erected and placed by him thereon, taking care to leave the same in as good order and condition as when it came into his possession; and in addition to the remedies above provided, all water rents due, or to become due to the said city, may be collected and recovered in the name of the treasurer of said city in an action of debt, or on the case, before any court of competent jurisdiction, against any person chargeable therewith.

Water rents to be a lien.

May require payment in advance.

912. SEC. 11. [Amended by Sec. 919, *post.*]

913. SEC. 12. [Amended by Sec. 920, *post.*]

914. SEC. 13. That the said board of aldermen, council or other legislative body of said city shall, on or before a certain day in each year, to be fixed by said body, by a committee to be appointed from the members thereof, cause a careful estimate to be made of the interest on the water debt and cost of managing and keeping in repair and operation of the works for the ensuing year, and of the amount to be received during the

Proceedings in case receipts are less than expenditures.

Deficiency to be raised by taxation.

same year for the use of water and water rents, and of the deficiency, if any, of such receipts for the payment of such expenditures, and such committee shall report the same in writing to said body, and said deficiency said city shall raise by tax as other city taxes are assessed, levied and collected, and said body shall, in case of any estimated deficiency, furnish a copy of such report to the board or officer who by law is required to make assessments of taxes in said city.

Additional sum may be assessed to cover deficiencies.

915. SEC. 14. That it shall be the duty of the said board or other officers of said city, to add to the sum so reported three per centum to cover losses and contingencies, and to assess such sum so increased upon all the taxable property in said city, in the same manner as other taxes are assessed, and said taxes shall be collected by the collector and other officers of said city, who are by law required to collect taxes, and if not paid at the time required by law for the payment of other city taxes, shall be collected by warrant and by and in the same manner as other city taxes are collected in said city, and shall be a lien upon the property whereon the same are assessed in like manner.

Penalty for injury to property or works.

916. SEC. 15. That if any person or persons shall maliciously or willfully divert the water or any portions thereof from the said works, or shall pollute, corrupt or render impure the water in any reservoir, aqueduct, conduit or raceway erected, built or laid down under the provisions of this act, or shall destroy or injure any engine, machine, reservoir pipe, fire plug, hydrant or structure whatsoever, or other property used or required for procuring or distributing the water whereby the same may be obstructed or stopped, or shall willfully or maliciously draw off or waste the water from any fire plug or hydrant, such person or persons and their aiders and abettors shall forfeit to the said city, to be recovered in the name of the treasurer of said city, in an action of trespass, in any court in this state having cognizance of the same, triple the amount of damages which shall appear on trial to have been sustained, and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding one year, or both, at the discretion of the court.

Provisions of act to remain inoperative in any city until assented to by a majority of the legal electors thereof.

917. SEC. 16. That this act shall take effect immediately, but its provisions shall remain inoperative in any city in this state until assented to by a majority of the legal electors thereof voting at an election to be held in said city at any time to be fixed by the board of aldermen, council or other legislative body of said city, of which election the city clerk of said city shall cause public notice of the time and place of holding the same to be given by advertisements signed by himself, and set up in at least twenty public places in said city, and published in one or more newspapers printed therein, for at least six days previous to the day of such election; (*a*) and said clerk shall provide for each elector voting at such election, ballots to be printed or written, or partly printed and partly written, on which shall be either the words "for the adoption for this city of the provisions of an act entitled 'An act to enable cities to supply the inhabitants thereof with pure and wholesome water,'" or "against the adoption for this city of the provisions of an act entitled 'An act to enable cities to supply the inhabitants thereof with pure and wholesome water;'" that the polls for such election shall be held at the usual places of holding the annual charter election in said city, and shall be opened at seven o'clock in the forenoon and closed at seven o'clock in the afternoon, and such election shall be conducted by the proper election officers of said city for the time then being, and in the manner as may then be prescribed by the ordinance of said city regulating elections therein, and such officers shall return to the board of aldermen, council, or other legislative body of said city, a true and correct statement in writing, under their hands, of the result of said election, the same to be entered at large upon the minutes of said body. (*b*)

(*a*) The method of computation is to include either the day when the notice was given or the day of election and to exclude the other day. *Stroud* v. *Consumers' Water Co.*, 27 *Vr.* 422.

(*b*) The direction to give the notice of election is mandatory, and notices not stating the place or places where polls would be opened are insufficient, and the election thereby rendered invalid. *Morgan* v. *Gloucester City*, 15 *Vr.* 137.

Supplement.

Approved March 9, 1877. P. L. 1877, p. 119.

918. SEC. 1. That the seventh section of the act to which this is a supplement, and which reads as follows, to wit [see P. L. 1876, p. 370], be and the same is hereby amended so as to read as follows, to wit:

Amount which cities are authorized to borrow. 651-918 A00-44

[That any of the said cities be and they are hereby authorized to borrow any sum not exceeding ten hundred thousand dollars, for the purpose of defraying all the expenses and the cost of the purchase of real estate, works, property, rights, franchises, privileges and appurtenances of the said existing water company or companies, and of maintaining and extending the same, and for the purpose of defraying all the expenses and the cost of such other lands, buildings or water privileges as shall be purchased or taken for the purposes of this act, and for the purchase of materials, the laying of pipes and mains in the said city, and constructing all works necessary for the full accomplishment thereof, and of all expenses incidental thereto, and to secure the payment thereof by issuing bonds not exceeding the amount aforesaid, under the seal of said city, and the signature of the mayor and other proper officers of said city, bearing interest at the rate not exceeding seven per centum per annum, payable semi-annually, and to pledge the property and credit of said city for the payment of the same; that the principal of said debt shall be payable at periods not less than ten nor more than fifty years from date, and the treasurer of said city may dispose of the said bonds at either public or private sale for the best price that can be obtained, but at not less than their par value; that record of all said bonds so issued and disposed of shall be kept by the said treasurer, and all moneys received therefrom shall be deposited by said treasurer in any bank or banks to be designated from time to time by a majority of said board of aldermen or common council, and shall be drawn upon by said treasurer for the purposes of this act solely, and for none other, and only when said treasurer shall be so ordered by proper warrant or warrants issued by said board of aldermen, council or other legislative body of said city.] (*a*)

May issue bonds.

919. SEC. 2. That the eleventh section of the act to which this is a supplement, and which reads as follows, to wit [see P. L. 1876, p. 372], be and the same is hereby amended so as to read as follows, to wit:

Authorized to charge and collect water rents.

[That the board of aldermen, common council or other legislative body of said city, be and they are hereby authorized and empowered, by ordinance, to charge the owners of any and every building erected along the line of any street, road, lane or alley in said city in which any water pipes are now laid, or shall hereafter be laid, by order of said board of aldermen or common council, and shall not have the water introduced on the premises, a water rent not exceeding the rent charged by said city for a single hydrant, and collect the same in the manner hereinbefore provided for, for the collection of water rents in arrears; and that the board of aldermen, common council or other legislative body of said city, may from time to time fix, by ordinance, a sum to be assessed annually upon all vacant lots situate along the line of any street, road, lane or alley in said city in which any water pipes are now laid, or shall hereafter be laid, by order of said board of aldermen or common council, which sums so fixed and assessed shall be denominated water rents, and shall be collected in the manner hereinbefore provided for, for the collection of water rents.]

920. SEC. 3. That the twelfth section of the act to which this is a supplement, and which reads as follows, to wit [see P. L. 1876, p. 372], be and the same is hereby amended so as to read as follows, to wit:

Moneys received, how applied.

[That such portions of the moneys received from the water rents or prices paid for the use of water, and interest on arrears of water rents, as may remain after paying all expenses and costs for purchasing water works, or for constructing and maintaining water works, and raising and distributing the water, and salaries, wages and incidental expenses and

(*a*) See *Hackensack Water Co.* v. *Hoboken*, 22 *Vr.* 220. *Stroud* v. *Consumers' Water Co.*, 27 *Vr.* 422.

charges, shall be applied by said body, first, to the payment of the interest upon the debt created for the purchase and construction of the works, and, next, to the purchase of the bonds issued therefor, if the same can be obtained at reasonable rates, or, if that cannot be effected, then to be safely invested by commissioners of the sinking fund of the said city, if any there be, and if none, then by the said legislative body, and allowed to remain as a sinking fund, to be applied to the repayment of the bonds at maturity.]

Board of water commissioners in any city to have the powers of this act.

921. SEC. 4. That whenever any water works owned and controlled by any city in this state, shall be directly managed and conducted by any board of water commissioners, or other body authorized by law, then and in that case the said board of commissioners or other body shall have all the powers, rights and duties in respect to the management of said water works, and the assessment and collection of said water rents or taxes, which are by this act, or the act to which this is a supplement, conferred, or may be hereafter conferred upon the board of aldermen, council or other legislative authority of such city.

Cities owning works under act heretofore passed to enjoy rights and privileges conferred by this act.

922. SEC. 5. That any city in this state owning and controlling water works under and by virtue of any act heretofore passed, may enjoy and exercise all the powers, rights and privileges conferred by this act, so far as the same may be applicable, and with no other limitations or restrictions than are herein contained and specified.

Supplement.

P. L. 1879, p. 168.

Approved March 13, 1879.

Assessment for use of water to be a lien on property.

923. SEC. 1. That in any city in this state having more than ten thousand inhabitants, wherein water works are or may be owned by the city and controlled directly or indirectly by the city authorities, all assessments, by whatever name, designated for the use and supply of water furnished to the occupant or owner of any property, may be charged either against the said occupant or the said owner, at the option of the commissioners or other officials whose duty it shall be to lay such assessments, and in either case they shall be and remain a lien upon said property until they shall have been fully paid.

Repealer.

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

Supplement.

P. L. 1883, p. 98.

Approved March 13, 1883.

City adopting provisions of original act to have the right to lay and maintain water pipes across any lands.

925. SEC. 1. That it shall and may be lawful for any city which may have adopted or shall adopt the provisions of the said act, by the assent of a majority of the legal voters thereof voting at an election held or to be held in said city, to purchase, take, condemn, hold, use and enjoy, in the manner and for the purposes mentioned and provided in and by the said act, the right and privilege to lay down, repair, replace and forever maintain any water pipe or pipes in, over, through and across the land of any owner or owners, upon the route and in accordance with the plan of the said city for the supplying of water to the inhabitants thereof, and the proceedings in and for the condemnation of any such right and privilege shall be, as nearly as possible, similar to the proceedings to be had and taken under the said act in and for the condemnation of any land or water rights which may be required for the purposes thereof or affected by any operation connected therewith; and any report made or to be made by any commissioners appointed or to be appointed under and by virtue of the said act, may be delivered to the court appointing the said commissioners, either at the next term thereof or at the term in which the said appointment was or shall be made.

Supplement.

Approved March 23, 1883. P. L. 1883, p. 176.

926. SEC. 1. That the board of water commissioners or other body or officers who are authorized by law to manage any water works, shall have the privilege, if they deem it best, to permit any person or persons, over or through whose land or in front of the same any pipe may be laid, to connect with said pipe, upon their complying with such terms and regulations as such water board may require, and upon paying the regular rates for the use of said water. Water commissioners may permit persons to connect with pipe.

927. SEC. 2. That any city which may have adopted or shall adopt the provisions of the said act shall be and hereby is authorized and empowered to lay and relay water pipes and mains under and through any avenue, road, railroad, highway, street, lane or alley in any town, township, borough or village through which the water required for the purposes of the said act may be conveyed from its source or sources into the limits of the said city; *provided, however*, the consent of the municipal authorities of said town, township, village or borough shall first be obtained. City authorized to lay pipes from the source of water-supply through any town, &c. Proviso.

Supplement.

Passed May 4, 1886. P. L. 1886, p. 339.

928. SEC. 1. That the provisions of the fifth section of the act to which this is a supplement [see Sec. 906, *ante*], for work involving an expenditure exceeding five hundred dollars, shall not be construed to apply to the compensation of engineers. Construction of act as to engineers.

An act relating to the purchase of land and water rights by boards of water commissioners, and issuing bonds therefor.

Approved March 27, 1878. P. L. 1878, p. 172.

929. SEC. 1. That in all cases where there is in any city of this state an aqueduct board or board of water commissioners, it shall not be lawful for such board to make any contract or issue any bonds for the purchase of any land or water rights for the purpose of supplying said city with water without having first obtained the consent of the common council or other governing body of such city thereto. Consent of common council to be obtained before issuing bonds or making contract.

An act relative to the management of water works in certain cities of this state.

Approved March 10, 1880. P. L. 1880, p. 130.

930. SEC. 1. That hereafter in any city of this state in which water works are owned by the city and managed by a board of water commissioners, and said water commissioners are now required by law, after providing for the payment of the semi-annual interest on the "water loan" of such city, to pay over to the commissioner of the sinking fund of the city the surplus of the net rents and revenue of the water works, to accumulate as a sinking fund for the payment of said "water loan" at maturity; it shall be lawful for said commissioners, and they are hereby authorized, at their discretion, to pay to the commissioner of the sinking fund entitled to receive the same, at the several times now provided by law, such sum only out of the net rents and revenue of said water works as upon a fair estimate, to be made by said sinking fund commissioner, may be deemed by him sufficient to provide for the payment of all the bonds constituting the "water loan" of said city as they severally fall due. Commissioners authorized to pay to sinking fund such sum only as will be sufficient to provide for payment of bonds.

931. SEC. 2. That it shall be lawful for the water commissioners of any such city above mentioned, after providing for the payment of the interest on the "water loan" and making the payments to the sinking fund for the redemption of said loan at maturity as provided in the preceding section of this act, to appropriate and use the balance of the net rents and revenue of the water works, or such part thereof as they may deem neces- Balance of rents and revenue may be expended for extension and improvement of pipes, mains and water works.

sary or expedient, to and for the extension and improvement of the pipes, mains and water works.

Repealer.

932. SEC. 3. That all acts and parts of acts, whether general, local or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

An act concerning cities in this state.

Approved March 16, 1881.

P. L. 1881, p. 122.

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Resolutions or orders concerning the issuing of water scrip, &c., to be concurred in by board of finance, &c.

933. SEC. 1. That no motion, resolution or order concerning the issuing of water scrip or bonds, or the control and cognizance of the structures and property connected with the supply and distribution of water, or the supplying, sale and use of water in any city in this state, shall be of any force or effect unless the same be concurred in by the board of finance and taxation, or other board having control of the fiscal department of said city. [See Sec. 934, *post.*]

Supplement.

Approved March 21, 1881.

P. L. 1881, p. 156.

Concurrence not necessary where boards are created for the sole purpose of operating water works.

934. SEC. 1. That no motion, resolution or order concerning the issuing of bonds, or the control, management and cognizance of the structures and property connected with the supply and distribution of water, or the supplying, sale and use of water in any city in this state, shall require the concurrence of any board of finance and taxation, or other board having control of the fiscal department of said city, in any city where there exists a board or commissioners created for the sole purpose of managing and operating water works.

Repealer.

935. SEC. 2. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed, and this shall be a public act and take effect immediately.

An act concerning cities.

Approved March 10, 1882.

P. L. 1882, p. 83.

City authorities authorized to extend water mains beyond the limits of any city.

936. SEC. 1. That in every city in this state in which water works are owned and controlled by the city authorities, the common council, board of commissioners, aqueduct board or other body having the actual management of such works, may, whenever they shall deem it expedient, and on such terms for water takers as they may from time to time prescribe by general rules, or make contracts for with individual consumers, extend their water mains beyond the limits of such cities respectively, to a distance not exceeding four miles in any single direction, and may make such lateral connections with said mains, and establish and maintain such fire hydrants as they may from time to time find necessary or desirable; *provided*, that the rates charged to water takers outside of such city limits shall not, in any case, be less than are charged for the same service within such cities, but may be as much greater (not exceeding twice as much, exclusive of hydrants,) as the body having the management of such works may determine; *and provided further*, that nothing in this act shall be construed to authorize the common council or other body having the actual management of such water works, to increase the bonded indebtedness of any such city for the purpose of laying such water pipes or to extend their pipes beyond the borders of this state or within the limits of any other city in which water works are or may be established, without the previous consent of the proper authority in such other city.

Proviso.

Proviso.

Town committees, &c., authorized to enter into contract for the supply of water, &c.

937. SEC. 2. That the township committee, council or other proper authority of any township, borough or other municipal corporation within which such water mains shall be extended, as hereinbefore provided for, are hereby authorized to enter into contract with said council, commissioners, board or other body having the actual management of water works as aforesaid, for the maintenance and use of fire hydrants, on such conditions and at such rates as may be mutually agreed upon; *provided, however*, that the ordinary use of roads and highways shall not be unreasonably interrupted during the laying of such water mains and pipes, and that such

Proviso.

roads and highways shall be left in as good condition as when such work was begun.

938. SEC. 3. That all acts and parts of acts inconsistent herewith, and so far as inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately. Repealer.

An act relating to arrearage of water rents or charges for the use of water furnished by cities wherein water works are owned and controlled by the city authorities.

Approved March 9, 1885. P. L. 1885, p. 66.

939. SEC. 1. That in any city of this state wherein water works are owned by the city and controlled by the city authorities, the municipal department of the city government having charge of such water works or the regulation of the distribution and use of water from the reservoir or reservoirs connected with such water works, shall have full power and authority, in case of the neglect or refusal of any person or corporation to promptly pay for the use or rents of water heretofore or hereafter furnished by such city or any municipal department thereof, in or upon any building, place or premises, to shut off the supply of water from such building, place or premises, and to make, adopt and enforce such by-laws, rule or rules and regulations as may be deemed proper by such municipal department in relation thereto, and in case the supply of water shall be shut off from any building, place or premises for non-payment of water rent or water rents, the said city or such municipal department aforesaid, shall not be compelled again to supply said building, place or premises, or any additional building or erection thereon, with water, until said arrears, with interest and penalties, if required, shall be fully paid and satisfied; nothing in this act contained shall be so construed as in any manner to deprive the said city of any rights which it now has to prosecute any person or persons, corporation or corporations, for the use of water or the power to sell lands and premises for unpaid water rents, or otherwise deprive the city of any existing rights regarding the same. Municipal authorities may shut off water from building of person neglecting to pay rent. Proviso.

An act to authorize and empower cities owning and controlling water works to make a contract with any city, town or township in this state for the distribution and use of water.

Approved April 20, 1885. P. L. 1885, p. 267.

940. SEC. 1. That any city of this state owning and controlling its own water works, be and is hereby authorized and empowered to make such contract or contracts with any city, town or township in this state to distribute and supply such city, town or township in this state with water for its use and that of its residents or inhabitants, in such manner and on such terms as the board having charge and control of the water department of such city may deem proper; *provided, however*, that no power conferred by this act shall be exercised till the board having charge of the finances of such city shall by resolution concur in any action in relation thereto. City authorized to contract for distribution and supply of water in any other municipality. Proviso.

An act to enable cities in this state to obtain a supply of water from existing city water works, and to validate certain contracts and obligations heretofore incurred by such cities for that purpose.

Passed April 22, 1886. P. L. 1886, p. 272.

941. SEC. 1. That it shall be lawful for any city in this state, not owning or controlling its own water works, by its board of councilmen or other governing body to make and execute a contract or contracts from time to time, with any other city in this state having water works, to obtain a supply of water for public and private use in such first-named city, and all such contracts heretofore entered into between different cities in this state are hereby ratified. City not owning or controlling water works may contract for water-supply.

Authorized to lay pipes and mains in streets, &c.

942. SEC. 2. That the board of councilmen or other governing body of any city making such a contract for the supply of water shall have power to lay and maintain all such pipes and mains under the streets and avenues of said city and through private property, after obtaining the consent, by purchase or otherwise, of the owners thereof, in said city, to conduct such water to such places in said city as said board may from time to time deem expedient, and for these purposes may make all such contracts and employ all such engineers, servants, workmen and laborers as they may deem necessary, subject, however, to the restrictions hereinafter mentioned.

Work and materials furnished to be by contract.

943. SEC. 3. That the work and materials which the board of councilmen or other governing body are herein authorized to procure shall be obtained by contract, whenever the expenditure for any particular work and materials shall exceed two hundred dollars, and that notice shall be given by public advertisement, so that ample time may be given for the reception of proposals therefor; each contract shall in all cases be awarded to the lowest responsible bidder therefor, who shall give bond with ample security for the faithful performance of the contract; but such board shall have the right to reject all bids and re-advertise for proposals whenever they shall deem such action for the best interests of the city; all contracts involving a greater amount than two hundred dollars and all contractors' bonds shall be presented to and approved by the governing body of said city before said contract shall take effect.

Contract to be awarded to lowest bidder, &c.

Authorized to furnish water to persons and corporations and establish rates of price, &c.

944. SEC. 4. That said board of council or other governing body of any city heretofore or hereafter contracting for a supply of water as herein provided, shall have authority to furnish water to all persons and corporations within the limits of said city, and from time to time to establish such general rates of price and time of payment thereof as they may deem proper, and to prescribe such rules, regulations, conditions and restrictions as to the use of water as may, in their opinion, be necessary to prevent abuse; and to erect and supply with water such number of public hydrants and in such places as they shall see fit, and to direct in what manner and for what purpose the same shall be used, all which they may change at their discretion; the said board shall have power, and it shall be their duty, to stop off the water from any premises, the owner or occupants of which shall have neglected to pay such water rents at the time specified for the payment thereof, or shall have violated or permitted the violation of any of their rules, regulations, conditions or restrictions; and whenever the water-supply shall be cut off from any premises for any such cause, the same shall not be turned on until the applicant for such restoration shall have paid all arrearages of water rent, together with the expenses incurred in stopping off the water; or in case said water-supply shall have been cut off for any violation of the rules aforesaid, then the same shall not be restored until the expenses of stopping off the same shall have been paid by the applicant for such restoration, and such applicant shall have given satisfactory security or assurance that such violation shall not occur again; and that all acts heretofore done and performed by such city with reference to the powers specifically granted in this section are hereby ratified.

Board may fix penalties for non-payment of water rents.

Penalties, how collected.

945. SEC. 5. That said board shall have the power, from time to time, to fix penalties for the non-payment of such water rents from the time they become due, which penalty shall never be less than interest at the rate of seven per centum per annum; and said water rents, with such penalties added, shall be and remain a lien upon the premises so supplied with water, and said city shall have similar remedies, by sale and otherwise, for the collection of said water rents, with penalties and costs of sale, as it now has or may hereafter acquire for the collection of taxes.

Authorized to employ and appoint purveyor, &c.

946. SEC. 6. That said governing board shall have power to employ a water purveyor and other subordinate servants for the management of said water system, and for the collection and enforcement of said water rents.

Board may make rules, &c., for tapping of mains, introduction and use of water, and fix penalties therefor.

947. SEC. 7. That said governing board shall have power to make such by-laws, rules and regulations respecting the manner of tapping the water mains and the introduction of water into houses, tenements, stores, manufactories and other places where the same may be required, and may from

time to time regulate the use thereof in such manner as to them may seem necessary and proper, and to fix the penalties to be recovered for breaches or evasions of such rules, which shall not exceed fifty dollars for each offense; and that the members of said board and the servants in their employ are authorized to enter at all reasonable hours any dwelling-house, factory or other place where said water is taken or used, or where unnecessary waste thereof is known or suspected, and to examine and inquire the cause thereof, and to examine all service pipes, stop-cocks and other apparatus connected with the water-supply, or for the purpose of ascertaining whether the same are of the character and dimensions required by the rules and fixed in the manner directed in the permits issued therefor; and if any person or persons shall refuse to permit such examination, or oppose or obstruct such officer in the performance of such duty, he, she or they, so offending, shall be liable to such penalty, not exceeding twenty dollars, for each offense, as the said board may impose, and the supply of water may be shut off from said premises until the required examination is made, and such alterations and repairs are completed as may be found necessary.

Board may issue bonds for extending supply of water, &c.

948. SEC. 8. That said city, for the purpose of acquiring and extending said supply of water, may, from time to time, by a vote of at least three-fourths of the members of said governing board, issue bonds of the city to pay for the expenses of laying pipes, erecting hydrants and all other expenses incidental to the introduction and use of water in said city, in such sums as the board of councilmen or other governing board shall find necessary; said bonds shall be signed by the mayor, sealed with the city seal and attested by the city clerk, and shall be in such form as said governing board shall fix and determine, and may be either registered or coupon bonds; said bonds shall bear interest at a rate not exceeding five per centum per annum, and shall be made payable at such periods of time as said board shall determine, not exceeding thirty years from the date thereof; that it shall be the duty of the city treasurer of said city to sell said bonds for the purpose of meeting the payments aforesaid, at not less than their par value; and that all bonds heretofore issued by any city for the purposes aforesaid are hereby ratified and validated to the same extent as if said bonds were issued after the passage and approval of this act.

Bonds, how and by whom issued.

Bonds heretofore issued ratified and validated.

Moneys received for water rents, how applied.

949. SEC. 9. That all moneys received by such city for water rents and penalties thereon shall be applied, first, to the payment of the water furnished by the city authorities owning and controlling its own water works to the city making the contract therefor, as provided in the first section of this act; next, to the payment of the interest on said bonds; next, to the payment of the expenses of repairing and maintaining the water pipes, hydrants and other apparatus distributing the water, and the salaries, wages and incidental expenses of the water department; and the balance, which shall not be less than three per centum of the water bonds then outstanding, shall be applied to the purchase and retirement of said bonds, if the same can be obtained at reasonable rates, or, if that cannot be effected, then such balance shall be safely invested by the commissioners of the sinking fund of said city, if any there be, and if none, then by the said governing body, and allowed to remain as a sinking fund, to be applied to the payment of said bonds at maturity.

Receipts insufficient to meet expenses, &c., deficiency to be raised by tax.

950. SEC. 10. That the board of councilmen or other governing body of such city shall, on or before making up the annual ordinance providing for the tax levy for municipal purposes, cause a careful estimate to be made of the interest on the water debt and the retirement of three per centum of the water bonds then outstanding, and the cost of purchasing a water-supply under said contract, of managing and keeping in repair and operation said water department for the ensuing year, and of any deficiency from former years in said water department, and of the amount likely to be received during the same year for water rents, and of the deficiency, if any, of such receipts for the payment of such expenditures, and said estimated deficiency said city shall raise by tax as other taxes are assessed, levied and collected; that it shall be the duty of said board of councilmen or other governing body of said city to add to the deficiency so reported five

per centum, to cover losses and contingencies, and to assess such deficiency so increased upon all the taxable property in said city, in the same manner as other taxes are assessed; and said taxes shall be collected by the collector and other officers of said city who are, by law, required to collect taxes, and if not paid at the time required by law for the payment of other city taxes, shall be collected by warrant and in the same manner as other taxes are collected in said city, and shall be a lien upon the property whereon the same are assessed in like manner.

Taxes, how and by whom collected.

Word "city," how construed.

951. SEC. 11. That whenever the word "city" is used in this act, it shall be construed to refer to the city obtaining a water-supply, as provided in the first section of this act, except where otherwise stated.

An act in relation to the power of aqueduct boards having the control of the water-supply in the cities of this state, to issue bonds or borrow money on the credit of the cities wherein such boards exist, to limit the powers heretofore given to such boards and giving the common council or other governing body of such cities powers in relation thereto, and providing for the funding and payment of indebtedness heretofore incurred by such boards.

P. L. 1888, p. 257.

Approved March 26, 1888.

Aqueduct boards to make annual statement of receipts and expenditures.

952. SEC. 1. That on or before the first day of February in each year, and annually thereafter, every aqueduct board or department having the control of the water-supply in the cities of this state, shall make and transmit to the common council or other governing body having the control of the finances of such city, a detailed statement of the estimated receipts and expenditures of such board or department for the current fiscal year; said board shall also forthwith after the passage of this act transmit to the same body a statement of all the bonds issued or loans made by such board, the rate of interest thereon, the dates at which such bonds or loans fall due, and the funds available for the payment thereof, if any.

Statement of bonds issued, &c.

953. SEC. 2. [Amended by Sec. 964, *post.*]

Empowered to borrow money in anticipation of receipts.

954. SEC. 3. That such board or department shall hereafter have power to borrow temporarily, in anticipation of estimated receipts for the current year, any sum not exceeding one-half of such estimated receipts; *provided, however*, that in no case shall such loans be made for a longer period than six months, and the same shall in all cases be paid by such board out of the receipts for the current year; all such temporary loans shall be made on certificates of indebtedness to be issued by such board, payable from current receipts as herein provided, and a record shall be kept by such board of all certificates so issued and the payment and redemption thereof.

Proviso.

Common council may raise money to extend water mains.

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955. SEC. 4. That for the purpose of enabling such board to extend water mains in the streets of any such city, the common council or other governing body shall each year, if such board shall require the same, raise for its use for this purpose in the annual tax levy of such city, or by the issuing of bonds for which authority is hereby given, a sum not exceeding twenty thousand dollars, but such council or other governing body may at its discretion in like manner provide a further sum each year for enlarging, extending or repairing the water works in any such city; *provided*, the sum so raised shall not exceed the sum of fifty thousand dollars; *and provided, further*, that no sum shall be raised by such common council or other governing body, either by taxation or by the issuing of bonds, for the purpose of building or erecting a new system of water works, unless a majority of the legal voters of the city shall have expressed their assent to the erection of such works, and to the amount proposed to be expended therefor.

Proviso.

Bonds, how issued.

956. SEC. 5. That all bonds hereafter issued in any city, the proceeds of which are to be applied to the use of any such board or department, and all bonds to be issued by such city to refund bonds heretofore issued by any such board, shall be issued only under the authority of the common council or other governing body of such city, and all moneys provided in any such city for the use of such board or department shall be

Moneys, how drawn.

drawn from time to time as needed by such board by warrants, to be signed by the president and secretary of the board and countersigned by the mayor and auditor of such city.

Payment and redemption of bonds, how provided for.

957. SEC. 6. That for the payment and redemption of all bonds hereafter issued in any such city for the use of such board or department, a sinking fund shall be created by such city, which shall be sufficient to pay the annual interest thereon, and the principal thereof, when such bonds shall fall due; and for this purpose the money received from such board annually shall first be devoted, and such further sum as may be necessary for this purpose shall be annually placed in the tax levy of such city.

Payment of interest of bonds, how provided for, &c.

958. SEC. 7. That any such city shall provide annually in the manner mentioned in the last section, for the payment of the interest of all bonds heretofore issued by such board or department; and in case no sinking fund has been provided for the payment of such bonds, such city may, when such bonds shall fall due, refund the same for any period not to exceed thirty years by issuing new bonds for this purpose, and such city shall, in the manner provided in the last section, also provide a sinking fund for the payment of such re-issued bonds and for the payment of the annual interest thereon.

Where commissioners of sinking fund exist, bonds to be paid by them, &c.

959. SEC. 8. That where, in any such city commissioners of the sinking fund exist, all bonds hereafter issued under the authority of this act, as well as the interest thereon, shall be paid by such commissioners, and all moneys received by such city, from such board or department, and all moneys raised in the annual tax levy for the purpose of paying interest on such bonds or redeeming the same when due, shall be paid over to the commissioners of the sinking fund for that purpose, and in case any such board or department has under its control any funds set apart for the redemption of bonds issued heretofore by such board or department, such funds and all securities held by such board or department for this purpose shall be transferred to the commissioners of the sinking fund in such city, to be used by them for the payment and redemption of the bonds for which the funds were set apart, and if such funds are not legally applicable to any particular series of bonds, then the same shall be applied by the said commissioners in payment of the principal of the first bonds falling due.

How long bonds to run, interest, &c.

960. SEC. 9. That no bonds issued under the authority of this act shall run for a period exceeding thirty years, nor bear interest at a rate greater than six per centum per annum, nor shall the same be sold, negotiated or disposed of for less than their par value.

When city board not to exercise power under act.

961. SEC. 10. That no city board shall exercise any power under this act while the bonded indebtedness of such city exceeds fifteen per centum of its ratables liable to municipal taxation in such city.

Repealer.

962. SEC. 11. That all acts and parts of acts inconsistent with this act are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved April 2, 1888. P. L. 1888, p. 367.

Unlawful for aqueduct board to contract for supply of water unless contract approved by common council.

963. SEC. 1. That in any city having an aqueduct board in control of the water-supply, and a common council (having general charge and control of the finances of the city), it shall not be lawful for any such aqueduct board to enter into any contract with any water or other company, or contract for or procure a further or other supply of water for such city, unless the contract or plan shall first be submitted to and receive the approval of such common council by formal resolution.

Amendatory act.

Approved March 19, 1889. P. L. 1889, p. 66.

964. SEC. 1. That section two of the act [see Sec. 953, *ante*] above mentioned be and the same is hereby amended to read as follows:

Revenues to be paid into sinking fund and to city comptroller.

[That it shall be the duty of such board to pay over to the commissioners of the sinking fund of such city from the revenues of such board, from time to time, so much thereof as may be necessary to meet and pay the interest on bonds issued by such board for its use as the same falls due, and at the close of the fiscal year, or as soon thereafter as received, pay over the balance of moneys remaining in its hands received from all sources, after the payment of the current annual expenses of such board, to the comptroller of such city, and all temporary loans made by such board during the year, as authorized by this act; which moneys shall, while any funded debt incurred by such board, or for its use, remains unpaid and not otherwise provided for, be used solely to redeem and pay such funded debt and the interest accruing thereon.]

Repealer.

965. 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.

An act to authorize cities in this state to purchase pumps, where those in use are not sufficient for the necessary and proper distribution of water for public uses in said cities.

Approved April 2, 1889.

P. L. 1889, p. 146.

Cities authorized to purchase new pumps, &c.

966. SEC. 1. That whenever in any city of this state water is distributed for drinking and other public uses therein, from reservoirs into and from which said water is pumped, the supply of said water is now or may hereafter become insufficient for the public requirements, or is or may become so insufficiently distributed as to unwarrantably expose public and private property to destruction by fire, owing to the fewness or condition of the pumps now or hereafter employed, and there is no appropriation or money of said city applicable to said purpose, then the board in said city having the control of the water works and water-supply shall, by and with the consent and concurrence of the board of aldermen, common council or other municipal board having the control and management of the finances of any city, purchase a new pump or new pumps of such power and capacity as will properly and sufficiently supply and distribute the water in said city for the public uses and purposes; *provided*, that the amount of expenditure under this bill shall not exceed in the aggregate the sum of thirty-two thousand dollars.

Proviso.

Bonds may be issued therefor.

967. SEC. 2. That in order to raise the necessary money for the payment of said pump or pumps, the municipal board having the management and control of the finances of said city so purchasing the same is hereby authorized and empowered to issue bonds of said city, in the usual form, either registered or coupon, in an amount necessary to pay for said pump or pumps, not exceeding in the aggregate thirty-two thousand dollars, bearing a rate of interest not exceeding four and one-half per centum per annum, payable semi-annually; said bonds shall be payable in five years from the date thereof, and shall be sold for not less than par, and there shall be a sum appropriated and put in the tax levy of such city each year sufficient to pay the interest on said bonds, and also there shall in each year be appropriated and put in the tax levy of such city a further sum equal to one-fifth of the whole of the cost of said pump or pumps, which shall, from year to year, be properly invested and put in a sinking fund of said city, to pay said bonds as they mature and become payable.

Purchase to be by contract duly advertised.

968. SEC. 3. That no pump or pumps, for the purpose aforesaid under this act, shall be purchased by any city except by contract, upon notice duly advertised.

An act to authorize cities in this state to issue bonds to secure a new water-supply, and to refund bonds heretofore issued in certain cases.

Approved May 14, 1889.

P. L. 1889, p. 457.

Municipal authorities may issue bonds to secure new water-supply.

969. SEC. 1. That where, in any city, a contract has been or shall be made for the purchase of water, water rights and property, and works constructed or to be constructed for the purpose of providing a further and

other supply of water for such city, it shall be lawful for the common council, or other governing body of such city, by and with the consent of the board having charge and control of the finances therein, to issue, in the name of such city, its bonds to pay the purchase-money or contract price of such rights, property and works, and to pledge the property of such city for the payment thereof; such bonds shall, from the date of issue, run for a period not less than twenty, nor more than thirty years, and bear interest not exceeding four per centum per annum, and shall be of such form and payable at such place as may be determined on by the common council or governing body; *provided, however*, that the provisions of this act shall not apply to the purchase of any such water, water rights or property and works except that the same be purchased under and in accordance with the exercise of an option under the provisions of an act entitled "An act to authorize any of the municipal corporations of this state to contract for a supply or a further or other supply of water therefor," approved April second, one thousand eight hundred and eighty-eight. (*a*)

Proviso.

970. SEC. 2. That where, in any such city, bonds heretofore issued for the purpose of providing the present water-supply, shall fall due within the next ten years, and no adequate provision has been made for their payment, it shall and may be lawful for such city, in the manner mentioned in the preceding section, to issue other bonds of the character therein described, to redeem and refund the bonds so falling due.

Bonds heretofore issued may be redeemed by the issue of other bonds.

971. SEC. 3. That to provide a fund from which to pay the principal and interest of the bonds authorized by this act as they fall due, that all the revenues received from water rents in such city, except so much thereof as may be necessary to meet the current yearly expenses of the water board or department, shall be devoted and set aside, and the same shall be paid to the commissioners of the sinking fund, for this purpose, and while any part of such bonded debt remains unpaid, it shall be unlawful to use the same for any other purpose, and it shall be the duty of such city to raise annually by taxation, such further sum, if any be needed, as will be sufficient to pay the interest on such bonds as the same falls due, and provide a sinking fund of not less than two per centum of the amount so issued, to pay the principal of such bonds when they fall due; *provided, however*, that where, in any such city, there are or may be other revenues not specially pledged or appropriated, such revenues or any part thereof, may, at the option of the common council or other governing body, be used for this purpose, and to the extent to which the sinking fund hereby required is provided for from such revenues, it shall not be necessary to make provision therefor by taxation.

How payment of principal and interest of bonds provided for.

Proviso.

972. SEC. 4. That it shall not be lawful for any city, under the authority conferred by this act, to increase its bonded indebtedness so that the whole amount of such bonded indebtedness outstanding at any time shall be greater than fifteen per centum of the value of the real and personal property therein, as returned and assessed for taxation for municipal purposes, but in estimating the total amount of such bonded indebtedness in any such city, the aggregate amount of the money and securities held in the sinking fund of such city, applicable to the payment of such indebtedness, shall first be deducted.

Limitation to bonded indebtedness.

973. SEC. 5. That where any of the bonds issued under the authority of this act are owned and held by any taxpayer residing in the city wherein they are so issued, at the time taxes are laid and levied therein, the same shall in every such case be exempt from taxation.

What bonds exempt from taxation.

(*a*) See *Slingerland* v. *Newark*, 25 *Vr.* 67.

An act in relation to the power and authority of aqueduct boards or other water boards having the control of the water-supply in the cities of this state, giving such boards power to contract for and construct works, to purchase or condemn lands, waters and rights, and to use for such purposes certain funds in their possession.

P. L. 1890, p. 243.

Passed April 14, 1890.

Board may use certain moneys for additional water works.

974. SEC. 1. That where any aqueduct board or other water board having the control of the water-supply in the cities of this state, now has in its possession any moneys, funds or securities derived by taxation for the purpose of paying and redeeming bonds heretofore issued by such board and such funds are not legally applicable to the payment or redemption of the bonds so issued and such bonds have been otherwise paid and redeemed, it shall be lawful for such board to use such moneys, funds and securities for the purpose of providing new or additional works for the supply of such city with water, and every such board shall have power to contract for the erection and construction of all such works as may be necessary to procure such supply and provide for the storage and distribution thereof.

Board may acquire lands by purchase or condemnation.

975. SEC. 2. That where any such board has heretofore lawfully contracted for the erection and construction of water works for the supply of such city, such board shall have power, if it is deemed necessary, to purchase, or in case of inability to agree with any owner to condemn such lands, waters and rights as may be required, and the method of procedure if condemnation proceedings are taken shall be the same provided for by the act approved April the twenty-first, one thousand eight hundred and seventy-six, entitled "An act to enable cities to supply the inhabitants thereof with pure and wholesome water;" *provided, however*, that such board shall not be authorized to contract for or pledge the credit of any such city for any sum in excess of the amount hereby or heretofore authorized to be expended for the providing of such water-supply; *and provided further*, that nothing herein contained shall be so construed as to prevent any municipality from acquiring by purchase or condemnation lands, waters, personal property, rights or privileges necessary or proper for supplying such municipality with water from any source whatever, the same as if this act had not been passed.

Proviso.

Proviso.

An act to enable boards having the control of the water-supply in the cities of this state to construct reservoirs for the storage of water.

P. L. 1892, p. 41.

Approved February 25, 1892.

Preamble.

WHEREAS, In some of the cities of this state it has been or may be found that the storage reservoirs used to retain water for immediate use in case of accident to the works through which the supply is maintained, are not sufficient in capacity to provide against such contingency; therefore,

Boards having control of water-supply in cities authorized to construct reservoirs in case of accident, and purchase or condemn lands for that purpose.

976. SEC. 1. That it shall and may be lawful for the board or body having control of the water-supply in the cities of this state to construct and provide a reservoir or reservoirs for the storage of water sufficient in capacity to retain and hold for immediate use, in case of accident to the works, by which the ordinary daily supply is maintained, a quantity of water equal to the average daily consumption therein, for at least ten days, and such board shall have authority for this purpose to make necessary contracts, to purchase or condemn lands, either within or without the limits of such city as may be deemed most advisable, and to build, construct and complete such reservoir or reservoirs and to connect the same with the mains or pipes through which the water-supply of the said city is distributed.

How expense shall be provided for.

977. SEC. 2. That it shall be the duty of the common council or other governing body or board having control of the finances of any such city, on requisition therefor made by the board or body having the control of the water-supply therein, to furnish from time to time the money neces-

sary to provide such reservoir or reservoirs, and all the cost connected with the purchase of the land, and the construction and completion thereof; all property purchased by any such board or body shall be purchased in the name and for the use of such city, and title shall be taken in the name of such city therefor.

Temporary bonds may be issued.

978. SEC. 3. That to enable such city to obtain the money requisite for the purpose aforesaid, such city may issue its temporary loan bonds or certificates bearing interest at a rate not greater than five per centum per annum, and may renew the same from time to time until the works so authorized to be constructed shall be completed.

When reservoir is completed permanent bonds may be issued.

979. SEC. 4. That when such reservoir or reservoirs so constructed as aforesaid shall have been fully completed, it shall be the duty of the board or body having charge of the construction of the same, and the control of the water-supply in such city, to make and file with the clerk of such city a statement of the entire cost and expense of construction, including the cost of the lands acquired, and all other expenses, and the said city shall thereupon issue permanent bonds, negotiable in form, to run for a period not less than twenty nor more than thirty years, sufficient in amount to pay the entire expense connected with the construction of the said reservoir or reservoirs, and to take up and redeem the temporary loan bonds or certificates from time to time issued for the purpose of raising the money necessary to carry on such work; such bonds shall bear interest at a rate not exceeding five per centum per annum, and shall be of such form as such common council or other governing body or board having control of the finances may determine; the interest thereon shall be payable semi-annually, and they shall not be disposed of at less than par; the proceeds thereof shall be used exclusively for the purposes hereinbefore set forth.

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To bear interest at 5 per cent., to be paid semi-annually.

Interest on bonds to be paid from water rents.

980. SEC. 5. That for the purpose of providing a fund to pay the interest on the said bonds while outstanding, and the principal when due, there shall be set apart from the net revenue received from water rents and water rates in the said city not otherwise pledged, such sum as shall be sufficient to pay the interest as it falls due and the principal of the said bonds at maturity; *provided, however*, that if it shall be found that the receipts thus pledged are insufficient to furnish a fund from which to pay the annual interest on the said bonds, and to provide a sinking fund of not less than two per centum of the principal of the said bonds per annum, then it shall be the duty of the common council or other governing body or board having control of the finances of such city to raise a sum sufficient for this purpose in the annual tax levy of such city, and to apply the sum raised for interest to the payment of the annual interest on the said bonds, and to pay over the sum raised as a sinking fund to the sinking fund commissioners of such city, for the redemption of the said bonds when due.

Proviso.

Proceedings for condemnation of lands.

981. SEC. 6. That in case it shall be found necessary to condemn lands for sites for such reservoir or reservoirs, proceedings for such condemnation, and the method of procedure in such condemnation proceedings, shall be the same provided for in the act entitled "An act to empower cities to acquire lands for public use by condemnation," approved March seventeenth, one thousand eight hundred and ninety-one.

Work to be done by contract.

982. SEC. 7. That all work and materials required in the building and constructing of such reservoir or reservoirs shall be obtained by contract, and public notice shall be given by the board having control of such work, by proper public advertisement, so that ample time may be given for the reception of sealed proposals for the doing of the work and furnishing the materials; contracts shall in all cases be awarded to the bidder who, in the judgment of the board, offers the terms most advantageous to the city, and such board may reserve the right to reject all bids; the bidder or bidders to whom such contract shall be awarded shall give bond with ample security for the faithful performance of the contract; all such bonds shall be executed to such city in its corporate name, and after being duly recorded in the office of the county clerk of the county in which such city is situated, shall be deposited for safe keeping with the comptroller or like financial officer of such city, and in case any such bond shall be lost or

Contractors to give bonds.

Bonds to be executed to the city, recorded in the office of the county clerk and filed with financial officer of the city.

Proviso.

destroyed, then the record or a certified copy thereof may be used in evidence and shall have like effect as the original bond; *provided*, that such board shall not make any contract or perform any work in any city under the authority of this act when the approval or concurrence of the board or body having control of the finances therein is now required until such approval or concurrence has first been obtained.

Repealer.

983. SEC. 8. That this act shall be deemed a public act and shall take effect immediately, and that all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

An act enabling cities to construct connecting pipe lines or mains.

P. L. 1893, p. 115.

Approved March 8, 1893.

The board having charge of water works authorized to have constructed an additional cast-iron pipe line outside of city limits.

984. SEC. 1. That it shall and may be lawful for the municipal board of any city having charge and control of the water works for the supply of the inhabitants thereof, whenever in its judgment it shall be expedient so to do, to cause to be constructed an additional suitable cast-iron pipe line or main to connect any reservoir or water-supply of such city, located outside of the limits of such city, with any distributing reservoir within such city, or with the supply pipes or mains at any point within such city; *provided*, such pipe line shall be constructed by contract, after public bidding therefor in the manner prescribed in the laws now governing such city.

Proviso.

Board authorized to issue water bonds.

985. SEC. 2. That in order to supply the funds required for such construction, it shall be the duty of the board having charge and control of the finances of such city, upon the request of the board having charge and control of the water-supply therein, to issue the water bonds of the city to the amount so required, which bonds shall be sold at public sale for not less than par and accrued interest.

Bonds, when payable. Interest on.

986. SEC. 3. That the bonds to be issued under the provisions of this act shall be payable in not more than thirty years from the date thereof; they shall bear interest at a rate not exceeding five per centum per annum, and be in such sums as said financial board shall determine; they shall be executed under the corporate seal of such city and the signature of the mayor, comptroller or other financial officer, and may be either registered or coupon bonds, as said financial board may direct; said financial board may, from time to time, at the request of the holders thereof, exchange coupon bonds for registered bonds; *provided, however*, that the total cost of such works and the bonds to be issued therefor shall not exceed in any city a sum equal to four dollars for each inhabitant thereof, as ascertained by the latest census, taken by the state or federal authorities, as the case may be.

Proviso.

Sinking fund shall be established.

987. SEC. 4. That in order to redeem said bonds at maturity, there shall be established in such city a sinking fund, into which it shall be the duty of said water board to pay annually, in the month of July in each year, out of the income derived from such water-supply, a sum equal to two per centum of the bonds issued under the provisions of this act, which sinking fund shall be under the charge and control of the sinking fund commissioners of such city, by whatsoever name they may be called.

Interest to be paid out of rents.

988. SEC. 5. That the interest on said bonds shall be paid semi-annually, out of the collections for water rents in such city.

4. PUBLIC BUILDINGS.

An act concerning cities.

P. L. 1877, p. 143.

Approved March 9, 1877.

Where work on public building has not been contracted for according to law, referee may be appointed.

989. SEC. 1. That in case any work has been done or materials furnished in or for the erection or construction of any building or buildings, or any excavation therefor, or any addition, alteration or repair of any building or buildings, for or on account of any city in said state, and such work or materials were not duly advertised and contracted for in the manner prescribed by law, then the justice of the supreme court holding the circuit

court for the county in which such city shall be situated shall appoint a referee, who, if it appears to his satisfaction that such work and materials were furnished in good faith and without any intention to evade the law, by the order of any lawfully-constituted board in such city, or by the architect, superintendent or other person having charge of the work on any such building or buildings, shall order paid to the person or persons who may have done or furnished the same, such sum of money in payment thereof as shall be just and reasonable; and the money so ordered to be paid shall, upon confirmation of the report of said referee by said judge, and approval of such report by a resolution of the board of finance of said city, or finance department, adopted for that purpose, and approval of such resolution by the mayor of said city, be paid by said city in like manner as if due advertisement and contract had been made in the premises.

An act to authorize the common council or similar municipal body in any city to build and maintain a dock or wharf opposite said city, and at the end of any street therein.

Approved March 29, 1878. P. L. 1878, p. 221.

Cities may build and maintain docks or wharves.

990. SEC. 1. That it shall and may be lawful for the common council or other similar municipal body in any city in this state to build, maintain and keep in repair a dock or wharf in such city, at the end of any public road or street in said city running to any river bounding said city, extending a sufficient distance into said river for the accommodation of citizens and of vessels navigating the same, and from time to time to rebuild and repair the same, and to lay vessels at the same, and to receive dockage or wharfage therefor from all persons using the same, under such ordinances and regulations as may from time to time be made by the common council or other similar municipal body of said city; *provided*, that the boundaries, the exterior bulkhead and their lines, and the compensation to be paid or secured to the state shall be fixed and established by the riparian commissioners, and if the bulkhead and pier lines, or either of them, shall be hereafter extended by said commissioners, the right and title of the grantees shall extend to such extended bulkhead and pier lines without further compensation, which compensation, fixed by the commissioners, shall be paid or secured to the state, to the satisfaction of the governor, on or before the first day of January, one thousand eight hundred and eighty-one, and in default thereof then this act and all the provisions thereof shall thereupon cease and be of no more force or effect.

Proviso.

Penalty for injuring dock or wharf.

991. SEC. 2. That if any person or persons shall in any way injure the said dock or wharf, such person or persons shall be responsible for and shall make good all damages which may be sustained, recoverable by said city in an action of trespass in any court having jurisdiction of the same.

Repealer.

992. SEC. 3. That all acts and parts of acts, so far as the same may conflict with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

An act to authorize the erection of city halls in cities.

Approved March 14, 1879. P. L. 1879, p. 229.

Cities of less than 20,000 inhabitants may build city hall.

993. SEC. 1. That in any city of this state having at the last state census less than twenty thousand inhabitants, which now owns no city hall in fee, and in which there is no building owned by the city suitable for use as a city hall, the mayor and council of such city are hereby authorized and empowered to purchase land and erect a building thereon, suitable for use as a city hall, and to furnish the same; *provided*, that in no case shall the cost of purchasing said land, and erecting and furnishing said building exceed sixty thousand dollars.

Proviso.

Portion of building may be used as an armory.

994. SEC. 2. That such mayor and council may cause said building to be so erected and furnished that portions thereof may be used as an armory by any regiment or company of the national guard of this state, having its headquarters in such city, and other portions as a police station and city prison.

Moneys necessary may be raised by issuing bonds.

995. SEC. 3. That to provide the moneys necessary to carry into effect this act, such mayor and council shall have power to issue bonds of such city to an amount not exceeding sixty thousand dollars, having not more than thirty years to run, bearing interest at a rate not exceeding six per centum, and to pledge the faith, credit and property of said city for the payment of the principal and interest thereof, and to provide for such payment by taxation.

May erect building on land belonging to city, not dedicated as a public street or park.

996. SEC. 4. That the mayor and council of any such city may, instead of purchasing land whereon to erect such building, build such building on any lands belonging to said city, and not used and dedicated as a public street or park, notwithstanding any dedication to any purpose other than as a public street or park.

An act to authorize the erection of city halls in cities of this state which are not the owners of buildings used as such halls.

P. L. 1880, p. 106.

Approved March 3, 1880.

Mayor and common council authorized to erect a city hall.

997. SEC. 1. That in any city in this state in which there is not any building, the property of such city, suitable for use as a city hall, the mayor and common council of such city are hereby authorized and empowered to erect a building suitable for use as a city hall, upon any lands owned by such city and heretofore donated and dedicated as a public square; *provided*, that in no case shall the cost of erecting and furnishing said building exceed sixty thousand dollars.

Proviso.

Building to be so erected as to furnish accommodation for public officers, &c.

998. SEC. 2. That such mayor and common council may cause said building to be so erected as to furnish accommodation for the public officers of said city and such regiment or company of the national guard of this state as may be organized in said city; and said building may be so erected as to furnish all apartments necessary for the police regulation of said city.

Bonds for such building may be issued.

999. SEC. 3. That to provide moneys necessary to carry this act into effect, such mayor and common council shall have power to issue bonds of such city to an amount not exceeding sixty thousand dollars, having not more than thirty years to run, and bearing interest at a rate not to exceed six per centum per annum, and to pledge the faith, credit and property of said city for the payment of the principal and interest thereof, and to provide for the redemption of said bonds by taxation.

An act concerning cities in this state.

P. L. 1882, p. 68.

Approved March 8, 1882.

Proceeds of certain lands sold may be used for purchase of other lands.

1000. SEC. 1. That in any city in this state where lands dedicated to public uses have been sold, and the purchase-money therefor is required by law to be used for the purchase of other real estate and the erection thereon of buildings, and the furnishing of the same for the same public uses as the property sold, if such purchase-money shall not be deemed by the municipal board having the power to make such sale and purchase sufficient to purchase property and erect buildings suitable for such public uses, it shall be lawful for such board to expend, for the purchase of real estate for such public uses, a sum not exceeding the amount received from the sale of said property as aforesaid, in addition to such amount, for the purchase of lands for such public uses.

Board may borrow money and issue bonds.

1001. SEC. 2. That to provide moneys necessary to carry this act into effect, it shall be lawful for the board having control of the finances of the city to borrow money for such purchase, upon request being made to said board for that purpose by the board having power to make such sale and purchase; and said board, in order to procure said money, may issue bonds having not more than thirty years to run, and bearing interest at a rate not exceeding five per centum per annum, such bonds being issued in manner and form as other bonds of such city are now authorized by law to be issued; *provided*, the issue of bonds under this act shall not exceed, in any

Proviso.

city of this state, the limit now provided by law, and that the proceeds of the sale of such bonds shall not be applied to any other purpose than the purchase of lands for the public uses aforesaid.

An act to enable cities in this state to furnish suitable accommodations for the transaction of public business and an armory for the use of the national guard of the state therein organized. (1)

Approved April 15, 1887. P. L. 1887, p. 168.

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1002. SEC. 1. [Amended by Secs. 1016 and 1020, *post*.]

1003. SEC. 2. That for the purposes of this act the mayor of any such city shall appoint, with the concurrence of the board having charge of the finances of said city, three commissioners, no more than a majority of whom shall be members of the same political party, who shall be residents in said city and who shall give a bond for the proper performance of their duty in the penal sum of ten thousand dollars, and shall serve during the pleasure of the appointing power and until others are appointed in their places, unless removed for cause by the mayor with the approval of the board having charge of the finances of said city, who shall have power to select lands suitable for a site or sites for said public buildings, and if the lands selected shall be upon ground the whole or any part of which does not already belong to said city, such commissioners shall have power to purchase, acquire or condemn the property, with the concurrence of the board having charge of the finances of said city, in the name of the mayor and aldermen of said city, and to have plans and specifications prepared, and to erect on such property such buildings as they may deem suitable for the purposes of this act.

Commissioners may be appointed to acquire lands for public buildings.

1004. SEC. 3. [Amended by Sec. 1017, *post*.]

1005. SEC. 4. That said commissioners shall organize by the selection of one of their number as chairman, and that all moneys for the sale of property as herein authorized shall be paid directly into the city treasury and kept apart for the purposes of this act, and all payments made for the purposes of this act for the purchase of property or labor and materials furnished shall be upon orders or certificates of said commissioners, signed by their chairman, and the acts of a majority of said commissioners shall be the acts of the commissioners as herein authorized, and said commissioners shall receive as full compensation for their services one hundred dollars per month each for the time they serve, and the chairman shall receive twenty-five dollars per month in addition thereto.

Organization of commission, their powers, compensation, &c.

1006. SEC. 5. That for the purposes of this act such sum of money as may be necessary over and above the amount realized by any sales as herein authorized shall be furnished and provided by the board or authority having control of the finances of such city in such city, by the issue of bonds of said city, bearing interest at the rate of not exceeding six per centum per annum, to be sold at not less than the par value thereof, and said bonds shall be paid by taxation in not exceeding thirty years from their date of issue; *provided*, that the whole expenditure for the purchase of ground and erection of buildings thereon and all purposes of this act, including the amounts realized from any sale or sales as herein authorized, shall not exceed the sum of two hundred thousand dollars.

Necessary moneys to be raised by bonds.

Proviso.

1007. SEC. 6. That the act entitled "An act to enable cities of this state to furnish better accommodations for their officers and municipal boards, as well as the national guard of the state therein organized," approved March twenty-fifth, one thousand eight hundred and eighty-four, and all other acts or parts of acts inconsistent with this act are hereby repealed.

Repealer.

(1) The title to this act amended. See Sec. 1014, *post*.

Supplement. (1)

P. L. 1890, p. 404. Approved May 28, 1890.

Limit of expenditure for city hall and lands necessary therefor.

1008. SEC. 1. That for the purchase of lands and the acquirement of title thereto, and the erection and furnishing of a city hall, and for the other purposes of this act and the act to which this is a supplement, the commissioners provided for and authorized therein to be appointed shall have power to expend a sum not to exceed the sum of two dollars for each inhabitant of any city, in addition to the amounts realized by the sale of any lands and buildings, said sums to be raised by the issue of bonds, as provided in the act to which this is a supplement; and the principal and interest of said bonds shall be provided for and paid as provided in said act; *provided*, that the power and authority conferred by this act shall not be exercised or used in any city where, within the three years next preceding the passage of this act, any sum exceeding twenty thousand dollars has been expended in enlarging or increasing the accommodations of the building now used therein as a city hall.

Proviso.

Lands may be acquired by purchase or condemnation.

1009. SEC. 2. That whenever the commissioners so appointed shall have selected lands suitable, in their judgment, for the purposes of this act and of the act to which this is a supplement, but shall be unable, for any cause whatever, to agree with the owner or owners of any property so selected and intended to be taken for said purposes, then in every such case they may proceed to acquire title to such property, in behalf of the city, by appraisement and condemnation in manner following, that is to say: the said commissioners shall, under oath, according to their best judgment, appraise the value of such property and fix and determine what, in their opinion, would be a fair and reasonable price to be paid by the city for the same, and after making a statement, in writing, of such valuation and appraisement, describing said property and the price to be paid for the same, to which shall be appended a notice that if the owner or owners do not, within ten days after the service thereof, or after the same shall be published as hereinafter directed, make objection, in writing, to such valuation and appraisement, and appeal to the judge of the circuit court of the county in which such property may be situate, then the value so fixed and determined will be taken as the true value of said property and the amount to be paid by the city for the same; the commissioners shall serve a copy of the same upon the owner or owners of such property, if to be found within this state, but if such owner or owners cannot be found within this state, then the said commissioners shall publish the same in one or more of the official newspapers of the city in which said property is situate, for the period of two weeks, successively, at least once in each week; and in case the owner or owners of said property shall not, within ten days after the service of said valuation and appraisement, or within ten days after the time mentioned in the notice appended to the same in case of publication, as hereinbefore directed, give to said commissioners written notice of their objection to the same and of an appeal to the judge of said circuit court, then in such case the sum so fixed and determined by said commissioners shall be taken and held to be the true value of said property, to be paid by the city for the appropriation and use of the same.

Commissioners to give notice.

If owners do not object, the sum determined shall be held as the true value.

Appeal from award and proceedings thereon.

1010. SEC. 3. That if any owner of such property shall give notice in writing of objection to such valuation and appraisement, and of appeal to the judge of said circuit court, as in this act is provided, the said judge, upon a copy of all of said papers being laid before him, shall appoint a time and place when and where he will hear all of the parties interested, a copy of which appointment shall be served upon said owners, if resident in this state, or mailed to their address if not resident in this state, if their address be known, at least five days before the time so appointed; and at the time and place so appointed, or at such other time and place to which the hearing of said matter may, for good cause, be adjourned, the said judge shall proceed, in a summary way, to hear said parties and the evi-

(1) The title to this supplement amended. See Sec. 1015, *post*.

dence which they may offer in regard to the value of said property, and the price which the city should pay for the same, and upon due consideration of the matters so submitted to him, he shall fix and determine the value of said property and the price which the city should pay for the same, either by confirming the valuation and appraisement made by said commissioners, or by adding to or diminishing the amount so fixed and determined by them; and the amount so fixed and determined by said judge shall be deemed and taken to be the true value of said property and the price which the city should pay for the same; and upon filing a copy of said appraisement and valuation, and the certificate of said judge, in the office of the clerk of the county where said property may be situate, also in the office of the register, where there may be a register, to be recorded as deeds and conveyances of land are required to be recorded; and upon payment by the city of the amount of said valuation and appraisement, or depositing the same with the clerk of such county for the benefit of the parties entitled to the same, the title to said property shall immediately become absolutely vested in the city, and the city may forthwith enter and take possession and use, occupy and enjoy the same.

Judge to determine.

Appraisement to be filed.

Cities to pay the valuation and appraisement.

1011. SEC. 4. That in case the owner of said property, or any person interested in the same, shall be an infant or person of unsound mind, and so not competent to contract with said city for the sale of such property, then in every such case the valuation and appraisement of said commissioners shall be submitted to the judge of the circuit court of the county where such property is situate, whether any objections shall be made by or in behalf of such infant or person of unsound mind or not, together with such additional evidence of its value as he may require, and he shall thereupon fix and determine the value thereof and the price to be paid by the city for the same, as hereinbefore directed.

Proceedings where owner is an infant, &c.

1012. SEC. 5. [Repealed by Sec. 1018, *post.*]

1013. SEC. 6. 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.

An act amendatory of and supplementary to the act entitled "An act to enable cities in this state to furnish suitable accommodations for the transaction of public business and an armory for the use of the national guard of the state therein organized," approved April fifteenth, one thousand eight hundred and eighty-seven, and the supplement thereto approved May twenty-eighth, one thousand eight hundred and ninety, and to amend the title of said act and supplement.

Approved April 14, 1891. P. L. 1891, p. 396.

1014. SEC. 1. That the title to said act approved April fifteenth, one thousand eight hundred and eighty-seven, be amended so as to read as follows: "An act to enable cities in this state to furnish suitable accommodations for the transaction of public business."

Amendment of title to act.

1015. SEC. 2. That the title to said supplement, approved May twenty-eighth, one thousand eight hundred and ninety, be amended so as to read as follows: "A supplement to an act entitled 'An act to enable cities in this state to furnish suitable accommodations for the transaction of public business,' approved April fifteenth, one thousand eight hundred and eighty-seven."

Title of supplement amended.

1016. SEC. 3. [This section, amending Sec. 1002, *ante*, is amended by Sec. 1020, *post.*]

1017. SEC. 4. That section three of said act of April fifteenth, one thousand eight hundred and eighty-seven [see Sec. 1004, *ante*], be amended so as to read as follows:

[That for the purposes of this act the commissioners herein authorized shall have power to sell at public auction, after due advertisement for at least two weeks in the official papers of any such city, such public grounds or buildings therein, with the ground whereon the same may stand or con-

Commissioners authorized to sell public buildings and grounds not needed for public use.

nected therewith, the property of such city, as such commissioners and any public board of such city government having charge of such ground or buildings shall determine may safely be spared or not needed for public use, and the mayor and aldermen shall, in case of such sale, give a good and sufficient title therefor, or such title as the city may possess, and with the proceeds of such sale or sales and of the bonds hereinafter authorized the commissioners herein authorized shall erect the city hall building and purchase the lands as authorized by the second section of this act for the accommodation of the various officers and departments of the city government thereof.]

Repealer.

1018. SEC. 5. That section five of said supplement, approved May twenty-eighth, one thousand eight hundred and ninety, be and the same is hereby repealed.

1019. SEC. 6. [Amended by Sec. 1021, *post.*]

An act amendatory of and supplementary to an act entitled "An act amendatory of and supplementary to the act entitled 'An act to enable cities in this state to furnish suitable accommodations for the transaction of public business and an armory for the use of the national guard of the state therein organized,' approved April fifteenth, one thousand eight hundred and eighty-seven, and the supplement thereto, approved May twenty-eighth, one thousand eight hundred and ninety, and to amend the title of said act and supplement," approved April fourteenth, one thousand eight hundred and ninety-one.

P. L. 1892, p. 455.

Approved April 9, 1892.

1020. SEC. 1. That section three of said act of April fourteenth, one thousand eight hundred and ninety-one, to which this is a supplement [see Sec. 1016, *ante*], be amended so as to read as follows:

That section one of said act of April fifteenth, one thousand eight hundred and eighty-seven [see Sec. 1002, *ante*], be amended so as to read as follows:

Cities authorized to erect buildings and to purchase land.

[That in any city in which there are not buildings, the property of the city, suitable and sufficient to accommodate the different officers and departments of the city government, such city is hereby authorized to erect such building upon property now owned by such city, and to purchase other land on which to erect such building for a city hall and the accommodation of the different officers and departments of the city government, in the manner hereinafter provided; *provided*, that the total expenditure therefor shall not in any case exceed four hundred thousand dollars in addition to any amount, not exceeding fifty thousand dollars, derived from the sale of buildings and grounds as provided in this act.]

1021. SEC. 2. That section six of said act of April fourteenth, one thousand eight hundred and ninety-one, to which this act is a supplement, be amended so as to read as follows:

Bonds issued not to exceed $400,000.

To be sold for par and accrued interest.

Interest and principal to be raised by taxation.

[That no bonds shall be issued under the provisions of this act beyond the amount of four hundred thousand dollars; that said bonds shall be issued at a rate of interest not exceeding five per centum per annum; the said bonds shall not be sold for less than par and accrued interest; said bonds shall be issued and made payable in such manner that said bonds to the amount of ten thousand dollars shall fall due each year from and after three years from the appointment of such commissioners; that there shall be included in the tax levy, and raised by taxation in such city each year a sum equal to the interest upon such bonds and the principal of the bonds falling due within the year.] [See Secs. 1023 and 1027, *post.*]

Approval of bonds and contract by mayor required.

1022. SEC. 3. That no bonds shall be issued or authorized under the provisions of this act, by the board having charge and control of the finances of such city, nor shall any contract be made for the construction of a new city hall or any part thereof, or resolution for the expenditure of any moneys be authorized by such city hall commissioners unless the same

shall have been approved by the mayor of such city, to whom the same shall be submitted for approval in the same manner as the acts and resolutions of other municipal boards are by law required to be submitted.

A further supplement to an act entitled "An act to enable cities in this state to furnish suitable accommodations for the transaction of public business" (title as amended), approved April fifteenth, one thousand eight hundred and eighty-seven.

Approved March 9, 1893. P. L. 1893, p. 167.

671-1023 1024 A00-98

1023. SEC. 1. That no bonds shall be issued under the provisions of said act and the supplements thereto, and acts amendatory thereof, beyond the amount of four hundred thousand dollars, except in cities of the first class, where bonds may be issued for the purposes of said acts to an amount not exceeding seven hundred and fifty thousand dollars; that said bonds shall be issued at a rate of interest not exceeding five per centum per annum; they shall be sold for not less than par and accrued interest; they shall be made payable in such manner that bonds to the amount of at least ten thousand dollars shall fall due each year from and after three years from the appointment of such commissioners; there shall be included in the tax levy and raised by taxation in such city each year, a sum equal to the interest upon the outstanding bonds and the principal of the bonds falling due within the year.

Bonds in first-class cities may not exceed $750,000.

Rate of interest, &c.

Principal and interest on bonds, how paid.

1024. SEC. 2. That in cities of the first class the total cost for the purchase of lands, erection of building, furnishing and equipment thereof ready for occupancy by the various departments of the city, and all expenditures connected therewith, may equal but shall not exceed the sum of seven hundred and fifty thousand dollars, in addition to any amount derived from the sale of building and grounds, as provided in the acts in which this is a further supplement.

Limitation of expenditures further prescribed.

1025. SEC. 3. That said city hall commissioners shall have power, in their discretion, to acquire on behalf of such city, from time to time, such lands as in their judgment may be required for such building for a city hall and the accommodation of the different offices and departments of the city government, which lands and all additions thereto shall be acquired in the method prescribed in the acts to which this is a further supplement.

City hall commissioners authorized to purchase lands.

1026. 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.

Repealer.

Supplement.

Approved April 26, 1894. P. L. 1894, p. 149.

1027. SEC. 1. That for the purpose of purchasing sufficient land and the erection of a suitable and sufficient building for a city hall, in the manner and as provided in the act to which this is a supplement and the various supplements thereto, bonds of the city for that purpose, to the amount of five hundred thousand dollars, may be issued, sold and the proceeds thereof expended, and the principal and interest provided for in the manner as in said act and supplements provided.

Bonds may be issued for purchase of land and erection of city hall.

1028. SEC. 2. That this act shall not be construed to impair or in any manner conflict with the supplement to said act approved March ninth, one thousand eight hundred and ninety-three, and that this act shall take effect immediately.

Not to impair or conflict with previous supplement.

Supplement.

Approved March 6, 1895. P. L. 1895, p. 192.

1029. SEC. 1. That in any city of this state wherein there has been or may hereafter be erected a new city hall, pursuant to the provisions of said act and supplements, the commissioners appointed under said act are hereby authorized and directed to furnish and equip the said building for occupancy, to improve the surrounding grounds and to purchase all necessary furniture and fixtures and other articles in order to fully furnish and equip

Commissioners authorized to equip building and improve grounds.

the said building for immediate use by the officers and departments of city government, and to this end said commissioners shall use their judgment as to the furniture, fixtures and other articles necessary to furnish and equip the same, but shall not expend for said purpose, however, more than twenty-five thousand dollars without the consent of the board having charge and control of the finances of such city; that for the purpose of obtaining the money necessary for the purposes aforesaid the said commissioners shall, in writing, notify the said board having charge and control of the finances of such city of the amount which, in their judgment, will be necessary to furnish and equip the said building as aforesaid and improve the surrounding grounds, and thereupon said board shall raise, either upon the notes or bonds of said city, drawn for such time as the said board or body shall deem necessary, the amount of money named in said request and place the same to the credit of said commissioners, to be expended for the purposes aforesaid; the notes issued as aforesaid may be afterwards replaced by bonds of the city issued to take up and pay off said notes, which said later bonds the said board are hereby authorized to issue for such time as they deem best, not exceeding ten years.

Expenditure limited.

Board of finance shall raise necessary money.

Supplement.

P. L. 1895, p. 777.

Approved April 5, 1895.

Terms of commissioner, clerk and employes shall cease on completion of the work.

1030. SEC. 1. That in any city of the first class in this state the term of office of every commissioner appointed under the provisions of an act entitled "An act to enable cities to furnish suitable accommodations for the transaction of public business," title as amended, approved April fifteenth, one thousand eight hundred and eighty-seven, and of the several supplements thereto and amendments thereof, and any clerk or other employes of any such commissioners, shall cease and determine on the day set out in the contract or contracts and mentioned as the day of the completion of work to be performed, by virtue of the contract or contracts heretofore entered into by said commissioners for the erection and completion of a city hall.

In certain cases the mayor shall appoint commissioners to complete the work.

672-1031 A97-39

1031. SEC. 2. That in case the completion of any city hall in course of erection in any city of the first class under the provisions of said act and the supplements and amendments thereto, shall not be completed in the time set out as the date of completion in said contract or contracts, the completion of said city hall shall be committed to a board of city hall commissioners, to be composed of the treasurer and comptroller of such city and one citizen of said city, to be appointed by the mayor thereof; the person so appointed shall be designated as the president of the city hall commissioners; he shall hold his office during the pleasure of the mayor and shall receive an annual salary not exceeding two thousand dollars per annum, to be fixed at the time of his appointment by the board which has control of the finances of such city; the city treasurer and city comptroller shall receive no salary as members of the board of city hall commissioners.

President of the board only shall receive a salary.

Board shall complete the work, and cause certain improvements to be made.

1032. SEC. 3. That the board of city hall commissioners incorporated under section two of this act shall cause any city hall in course of erection in the city for which they shall be appointed, which is not completed at the time of their appointment, to be completed and duly furnished and equipped for the transaction of public business in such city; such board shall also, after such building shall have been completed and accepted by the city, cause the same to be properly lighted, cleaned, heated and maintained, and shall also have charge of the grounds adjacent thereto, and shall cause the same to be improved, lighted, guarded and maintained.

Powers and duties of commissioners.

1033. SEC. 4. That the board of city hall commissioners incorporated under section two of this act shall become possessed of and invested with all of the powers and shall perform all the duties, including the disbursement of money now or hereafter placed to its credit, as is now provided by law, by any commissioners appointed under the provisions of an act entitled "An act to enable cities to furnish suitable accommodations for the transaction of public business," title as amended, approved April

fifteenth, one thousand eight hundred and eighty-seven, and of the several supplements thereto and amendments thereof.

1034. SEC. 5. That the board having control of the finances of any city which shall have constructed or started the construction of or may hereafter construct a city hall under the provisions of the act to which this is a supplement, shall have power to borrow so much money as may be necessary for the completion of such city hall, and the furnishing and equipment thereof, and the laying out and improving of the grounds adjacent thereto, and issue the obligations of the city therefor, bearing interest at the rate not exceeding five per centum per annum, in an amount not exceeding one hundred thousand dollars beyond the amount heretofore issued or authorized for that purpose, and make the same payable at such time and times as said board shall determine; and said board shall establish a sinking fund for the payment of said bonds.

Financial board shall provide for payment of expenses.

1035. SEC. 6. That the expense of lighting, heating, cleaning and maintaining such city hall after the completion thereof and of maintaining the grounds adjacent thereto, including the compensation of the president, if appointed, and the compensation of all necessary employes and any other lawful expenses of the said board of city hall commissioners, including the interest on bonds issued by virtue of the provisions of this act, the requirements of said sinking fund and the principal of said bonds as they accrue, shall be included in the annual tax levy of such city in each year.

What expenses to be provided for by taxation.

1036. SEC. 7. 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.

Repealer.

An act to provide for the purchase of sites for and the erection and equipment of armories in cities of the first and second class, and making appropriations therefor, and to provide for the taking of real estate for such sites by commission in case the same cannot be purchased by agreement.

Approved March 23, 1888. P. L. 1888, p. 233.

1037. SEC. 1. That the members of the military board of the state of New Jersey for the time being, be and they are hereby appointed and constituted a commission for the purpose of this act, to select and purchase, on behalf and in the name of the state of New Jersey, a plot of ground in each of such cities in the state, of the first and second class where there are now or hereafter shall be established regimental or battalion headquarters of the national guard, suitable for the purposes of an armory, and if such lands or any part of them cannot be obtained by agreement with the owner or owners thereof, said commission shall acquire the title thereto by the exercise of the right of eminent domain in proceedings duly taken and had under and in accordance with the provisions hereafter specified.

Members of military board constituted a commission to purchase site for armory in cities of first and second classes.

673-1037
S96-361
S97-139
S97-194
S01-38
S00-317
S02-218

673-1037
S03-389

1038. SEC. 2. That in case the said commission shall not be able to agree with the owner or owners of any site they may select, or in case the owner or owners of such site be non compos mentis, or be under age, or not to be found, in either of such cases the said commission shall be authorized to apply to any justice of the supreme court, setting forth the facts in the case, and said justice is hereby authorized to empower the commission to proceed to take such site or sites by condemnation, under such rules as he may prescribe, and said commission shall thereupon proceed to estimate the just and true value of the property desired to be taken for such site, and the damages, if any, to be suffered by the owner or owners thereof, by reason of such taking, and shall make a report thereof, under oath, to the justice aforesaid, who shall fix a short day when he will hear any objections to such report, of which due notice shall be given to the parties in interest in such manner as the justice shall direct, and on said day or on such other day as he may fix, the said justice shall proceed to hear any objections to such report, by parties in interest in the property proposed to be taken, and he shall then confirm said report, or send it back to the said commission for correction or alteration, and shall fix some

Proceedings when commissioners cannot agree with owners of site.

other short day when he will again receive the report of the commission, when the same proceedings shall be taken as before, and when the report of the commission shall have been confirmed by said justice, it shall be filed in the office of the clerk or register of the county, and the said commission shall thereupon have full power to enter upon the lands and premises in question, and to take possession of the same in the name of the state of New Jersey, first making tender to the owner or owners thereof of the amount awarded therefor, or in case the owner or owners be under age, or non compos mentis, or not to be found, or absent from the state, then by filing in the office of the comptroller of the treasury of this state a certificate, setting forth the sum or sums to which any such owner is or may be entitled to receive for such lands and premises.

1039. SEC. 3. [Amended by Sec. 1056, *post*.]

When plans to be made.

1040. SEC. 4. That whenever the lands above mentioned shall be purchased or the title thereto shall have been acquired in the manner aforesaid, it shall be the duty of the said commission forthwith to proceed to obtain, by competition or otherwise, plans and specifications for the construction of a suitable armory, drill-rooms, company-rooms and store-rooms, including suitable apparatus for heating and lighting the same, the entire cost of which said armory, drill-rooms, company-rooms and store-rooms, in each city, and the apparatus for heating and lighting the same, shall not in the aggregate exceed the sum of seventy-five thousand dollars, which sum is hereby appropriated for that purpose for each city in which such armory shall be erected; and the comptroller is directed from time to time to pay the same, or as much thereof as may be necessary for the aforesaid purpose, out of any money in the treasury not otherwise appropriated, on the written requisition of the said commission; but no expenditures except for plans and specifications and for printing notices shall be made as provided in this section, until a title to a suitable site for such armory in such cities respectively, free from all incumbrances, certified by the attorney-general, to be sufficient and in due form, shall be vested in the state of New Jersey, nor until a contract or contracts for the completion of such armory, drill-rooms, company-rooms and store-rooms and necessary fixtures within the limits of this appropriation shall have been executed as herein provided.

Total cost.

How paid.

When expenditures may be made.

When armory to be erected.

1041. SEC. 5. That when said commission shall have procured suitable plans for an armory to be erected on such site, they shall cause such armory to be erected, with suitable drill-room, company-rooms, store-rooms and all other necessary and proper appurtenances for the best accommodation of the national guard of such city, and shall cause the grounds to be suitably graded, drained and otherwise prepared for such armory.

Work to be done by contract with lowest bidder.

1042. SEC. 6. That the work aforesaid shall be done by contract, to be awarded to the lowest responsible bidder or bidders, after not less than two weeks' public notice of the time and place when and where bids therefor will be received, at which time the bids shall be publicly opened, but the commission may reject any or all bids and advertise anew for bids; and the commission shall prescribe in the advertisements and in the contracts to be entered into for the erection of such armories or for doing any work pertaining thereto, such conditions as they shall deem most for the interest of the state.

Commission may employ superintendents and clerical aid.

1043. SEC. 7. That said commission shall have power to employ proper and capable persons to superintend the erection of any such works as aforesaid, and such clerical and other aid as they may need in the performance of the duties herein imposed on them.

Expenditures to be paid out of state treasury.

1044. SEC. 8. That for the payment of any expenditures herein authorized, the comptroller of the treasury shall draw his warrants on the state treasury, and the state treasurer shall pay the same from time to time as the said commission shall certify to the comptroller to be necessary, and to such persons as they may designate, but not more than one hundred thousand dollars shall be drawn from the state treasury in any one year for the purposes aforesaid. [See Sec. 1055, *post*.]

Amount limited.

Supplement.

Passed March 5, 1890. P. L. 1890, p. 39.

1045. SEC. 1. That no county shall be compelled or called upon to pay for the purchase of a plot of ground in any city of either the first or second class for the purpose of building an armory or performing such other work as provided in said act, unless in said city there shall be located more than two companies of infantry, which companies are attached to the regiment or battalion for which the armory is to be erected. When counties are not compelled to pay for purchase of lands for armories.

1046. 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.

Supplement.

Approved May 5, 1890. P. L. 1890, p. 290.

675-1047 A96-242

1047. SEC. 1. [Amended by Sec. 1053, *post.*]

1048. SEC. 2. [Amended by Sec. 1054, *post.*]

1049. SEC. 3. That it shall be lawful for the board of aldermen or other body having charge of the finances of any city wherein such armory shall be erected under the authority of said act, and for the board of chosen freeholders of any county wherein such armory shall be erected as aforesaid, each to appropriate towards the erection and completion thereof any sum not exceeding twenty-five thousand dollars, to be expended and paid on the order of the state military board, constituting the commission aforesaid, which sum so appropriated may be paid in one or in several annual installments, as the board or body making the same shall provide when making such appropriation. Amount of appropriation for each armory by boards of aldermen and chosen freeholders.

1050. SEC. 4. That in case of the sale at any time of any armory site purchased or obtained under the provisions of said act, and of the building or buildings thereon erected, the moneys paid for such site by any board of chosen freeholders, and the moneys paid toward the erection of such armory by any such board or body as aforesaid, as by this act authorized, shall be reimbursed pro rata to such board or body, after the state has been reimbursed in full for the moneys paid by it for such purpose. Reimbursement in case of sale of armory.

Supplement.

Approved March 23, 1892. P. L. 1892, p. 186.

1051. SEC. 1. That it shall be lawful for the board of aldermen or other body having charge of the finances of any city wherein it is proposed to erect an armory under the provisions of the act to which this is a supplement, and of the acts supplementary thereto, and for the board of chosen freeholders of any county wherein such armory is to be erected as aforesaid, to issue bonds of the said city or county or both, as the case may be, for the erection and completion of such armory, not exceeding twenty-five thousand dollars for such city or such county, which bonds shall be known as "armory bonds," and shall be of such denominations, and bear such rate of interest, and be payable at such times, as may be deemed by the corporation issuing them most for the public interest. Boards of chosen freeholders may issue armory bonds, not exceeding $25,000, for the erection of armories.

1052. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed. Repealer.

An act to amend an act entitled "A supplement to an act to provide for the purchase of sites for and the erection and equipment of armories in cities of the first and second class and making appropriations therefor, and to provide for the taking of real estate for such sites by commission, in case the same cannot be purchased by agreement," approved March twenty-third, one thousand eight hundred and eighty-eight, which supplement was approved May fifth, one thousand eight hundred and ninety.

Approved April 4, 1893. P. L. 1893, p. 507.

1053. SEC. 1. That the first section of the act of which this is amendatory [see Sec. 1047, *ante*] be and the same is hereby amended so as to read as follows:

Commission authorized to enter into contracts and erect armories.

Proviso.

[That the commission constituted by the act to which this is a supplement be and it is hereby authorized to enter into contracts and cause to be erected armories in cities of the first and second class in the manner prescribed by the said act in excess of the limitation in said act prescribed; *provided*, that the excess over and above such limitation shall be secured to be paid in such manner as said commission shall prescribe and in such manner that the state of New Jersey shall not be obligated to pay more than one hundred and thirty-five thousand dollars for the entire cost of erecting and completing any such armony as provided by said act.]

1054. SEC. 2. That the second section of the act of which this is amendatory [see Sec. 1048, *ante*] be and the same is hereby amended so as to read as follows:

Amount to be paid from state treasury.

[That it shall be lawful for said commission in entering into such contracts as aforesaid, to provide therein that no more than fifty thousand dollars shall be paid from the state treasury in any one year on account of each armory so contracted for.]

Supplement.

P. L. 1894, p. 121.

Approved April 24, 1894.

Preamble.

WHEREAS, By the eighth section of the act to which this is a supplement it was provided as follows: "That for the payment of any expenditures herein authorized, the comptroller of the treasury shall draw his warrants on the treasury, and the state treasurer shall pay the same from time to time as the said commission shall certify to the comptroller to be necessary and to such persons as they may designate, but not more than one hundred thousand dollars shall be drawn from the state treasury in any one year for the purposes aforesaid; *and whereas*, by reason of delays in procuring sites and other preparations for erecting armories under the provisions of said act no contracts were entered into by the commission constituted by said act until the year one thousand eight hundred and ninety-three, when a contract for the erection of an armory in Jersey City was entered into, and the said commission is now about to enter into a contract for the erection of an armory in the city of Paterson; *and whereas*, it is desirable to make certain changes and alterations in the present plan and design for the erection and completion of the said armory in Jersey City, which will involve the making of a supplemental contract therefor;" *and whereas*, the limitation contained in section eight of the said act as above quoted will prevent, unless modified, the prosecution of the erection of the said two armories at the same time; therefore,

Appropriation for Jersey City armory.

1055. SEC. 1. That there is hereby appropriated for the purpose of the erection and completion of the said armory in Jersey City, the sum of one hundred and thirty-five thousand dollars in addition to the amount, that at the date of the approval of this act, may have been paid and disbursed therefor or so much thereof as may be required to meet the payments due or to grow due on the existing contract therefor or any supplemental contract for the erection and completion thereof, involving said changes and alterations, that may be made and entered into by the state military board; which amount or amounts may be paid during the year one thousand eight hundred and ninety-four or subsequently; and that for the purpose of erecting and completing an armory in the city of Paterson there is hereby appropriated the sum of one hundred and thirty-five thousand dollars, or so much thereof as may be required by the exigencies of the contract to be entered into, which amount may be paid from the treasury during the year one thousand eight hundred and ninety-five; and so much of the act to which this is a supplement as is inconsistent with the provisions of this act be and the same is hereby repealed.

Appropriation for Paterson armory.

Repealer.

Amendatory act.

P. L. 1894, p. 163.

Approved April 30, 1894.

1056. SEC. 1. That the third section of an act to provide for the purchase of sites for and the erection and equipment of armories in cities of the first and second class and making appropriations therefor, and to pro-

vide for the taking of real estate for such sites by commission in case the same cannot be purchased by agreement, approved March twenty-third, one thousand eight hundred and eighty-eight, be and the same hereby is amended so as to read as follows:

When chosen freeholders to set apart moneys for erection of armory.

[That the county collector in any county in which such city is located, whenever a written notice shall be served upon him by the aforesaid commission, stating that lands have been contracted for or purchased, or the title thereto has been acquired as above directed, shall forthwith notify the board of chosen freeholders of such county of the action of the commission, and the said board of chosen freeholders shall set apart for the use of the said commission, out of any moneys in the county treasury, the amount stated in said notice as required by said commission; and in case the said board of chosen freeholders shall not have moneys enough on hand to meet such appropriation, then it shall be the duty of such board to issue bonds in an amount sufficient to meet such appropriation at a rate of interest not exceeding five per centum per annum, and payable in whole or in part in not more than fifteen years from the date thereof, and to advertise for proposals to sell the said bonds to the highest bidder for an amount not less than the par value thereof; the said moneys when so appropriated or the proceeds of the sale of such bonds shall be retained by the said county collector and shall be by him paid out upon the written requisition of the aforesaid commission, by which it shall be applied to the payment of the amount of the purchase price or cost of said land and any damage for awards or compensation which may be made under the proceedings to acquire said title and the costs and expenses of acquiring said title and the grading, filling, excavating, paving and fencing of said lands, and the interior completion and also the equipping and furnishing of said armories, drill-rooms, company-rooms and store-rooms when built, and any expenses incident to the carrying out of the provisions of this act, the entire cost of which in each city shall not in the aggregate exceed the sum of twenty-five thousand dollars; *and provided further*, that all proceedings heretofore taken by cities of the first and second class to purchase an armory site for which bonds have been authorized to be issued at a rate of interest not exceeding five per centum, if such proceedings have otherwise been taken in accordance with the provisions of the act hereby amended and in accordance with the provisions of acts supplementary and amendatory thereto, be and the same are hereby confirmed and made valid, legal and effectual, to the same extent that the same would have been legal, valid and effectual if all such proceedings had been instituted and taken in accordance with the provisions of the act as hereby amended.]

May issue bonds therefor.

Moneys shall be applied to purchase, &c., of armory.

Entire cost of limited.

Proviso.

Supplement.

Approved March 7, 1895. P. L. 1895, p. 208.

Preamble.

WHEREAS, No appropriation has been made for the equipment and furnishing of the armories in Jersey City and Paterson, and by reason thereof they cannot be devoted to the uses and purposes for which they are intended; *and whereas*, it is impossible to raise, by voluntary subscription, the entire amounts necessary to properly equip and furnish said armories:

Appropriations for furnishing armories at Jersey City and Paterson.

1057. SEC. 1. That the sum of six thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the equipment and furnishing of the armory at Jersey City, and the sum of six thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the equipment and furnishing of the armory at Paterson, the said sums, or so much thereof as may be necessary for the said purposes, to be disbursed by and under the direction of the state military board, and the said sums of money, or so much thereof as may be necessary for the purposes aforesaid, to be paid by the state treasurer, out of any funds in his hands not otherwise appropriated, on the warrant of the comptroller, upon requisition of the state military board, approved by the governor.

An act to authorize cities in this state to purchase lands for the erection of and to construct public docks, wharves and piers, and to purchase and improve rights of way leading thereto, and to purchase lands lying contiguous thereto, so as to make said lands, docks, wharves and piers accessible.

P. L. 1888, p. 447.

Approved April 17, 1888.

Board of finance or other body authorized, upon application of freeholders, to purchase lands for erection of docks, wharves, &c.

678–1058
A01–203

1058. SEC. 1. That the board of finance or other body having the control of the finances of any city in this state, bordering on an arm of the sea or other navigable stream, or through which a navigable stream shall run, are hereby authorized and empowered, upon the written application of not less than fifty freeholders in said city, to purchase lands bordering on such arm of the sea or other navigable stream, including the lands under water in front thereof, for the erection, construction and maintenance of one or more public docks, wharves or piers, which purchase shall include a right or rights of way, not exceeding eighty feet in width, leading to said lands, docks, wharves and piers, and such lands lying contiguous thereto, as shall be necessary to make said lands, docks, wharves and piers accessible.

When lands purchased, board having charge of construction of public docks to construct docks, &c.

678–1059
A01–203

1059. SEC. 2. That after the purchase of such lands and the rights of way leading thereto, and the necessary lands lying contiguous thereto, so as to make the said lands, docks, wharves and piers accessible, it shall be the duty of the board having charge and control of the construction of public docks and buildings, and the opening, grading and otherwise improving the streets in said city, to proceed to construct one or more public docks, wharves and piers in front of the lands so purchased; said board shall first advertise for proposals for the construction of such docks, wharves or piers, in the newspapers printed and published in said city authorized to publish the proceedings of such board, for such time and in such manner as shall be provided by the charter of any such city, or otherwise, for proposals for the erection and construction of public buildings in such city; and it shall further be the duty of the board in said city having the control of the opening, grading and improving of streets in such city, to advertise in the same papers, in the same manner and for the same time for proposals for opening, grading, sewering, paving and otherwise improving such right or rights of way leading to said public dock or docks, wharf or wharves, pier or piers; and upon the said proposals being received, it shall be the duty of such board or boards so receiving said proposals to accept such as shall be in the judgment of such board for the best interest of said city, and proceed at once with the construction and erection of such docks, wharves or piers, and with the opening, grading, sewering, paving and improvement of such right or rights of way leading to such dock, wharf or pier; *provided, however*, that such acceptance shall be concurred in by the board having charge and control of the finances of such city.

Board to advertise for proposals for construction of docks, &c.

For opening and grading of streets.

Proviso.

Board of finance authorized to issue bonds to pay for purchase of lands, construction of docks, &c.

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1060. SEC. 3. That for the purpose of the purchasing said lands and rights of way, and the construction and erection of such docks, wharves or piers, and the improvement of the right or rights of way leading thereto, and the opening, grading, sewering and paving of the said streets, the board of finance or other board having the control of the finances of said city, are hereby authorized and empowered, from time to time, to issue bonds of said city in an amount not exceeding one hundred thousand dollars in all, for such length of time as they shall determine; said bonds to bear interest at not more than five per centum per annum, payable semi-annually, and to sell the same at not less than their par value, and from the proceeds of the sale of such bonds to pay for the purchase of said lands and rights of way, the construction of such docks, wharves or piers, and the improvement of the rights of way leading thereto.

Board having charge of public docks to prescribe rate of wharfage, and appoint officer to collect same.

1061. SEC. 4. That it shall be the duty of the board of said city having charge of the public docks, to prescribe such rate of wharfage for vessels and other craft lying at, or loading or unloading at such docks, wharves or piers, to pay for the privilege, as they may determine, and to appoint

an officer or officers to collect the same; and the revenue derived from the payment of such rates of wharfage shall be applied:

I. To the maintenance and protection of such lands, docks, wharves and piers, and the rights of way leading thereto; Revenue, how applied.

II. To the payment of the interest on said bonds; and

III. To the payment of the principal sum accruing on said bonds and the purchase of the same before maturity;

IV. And after the payment in full of said bonds, to the general expenses of such city; *provided, however*, that any deficiency remaining for the payment of the interest and principal of said bonds, after the application of said wharfage revenues, shall be levied and raised in said city by general taxation from year to year. Proviso.

An act concerning the location and erection of buildings for a city hall and the accommodation of the different officers and departments of the city government in cities of the first and second class in this state.

Approved February 13, 1893. P. L. 1893, p. 19.

1062. SEC. 1. That all buildings, hereafter erected for a city hall and the accommodation of the different officers and departments of the city government in cities of the first and second class in this state, shall be so located and erected that there shall be an open and vacant space of ground of at least twenty-five feet in width on all sides of the same; *provided*, that this act shall not apply to the alteration and erection of additions to buildings now in use for such purposes. Open space to be about city halls in certain cities. 679-1062 R01-301a

1063. SEC. 2. That it shall not be lawful for the common council, board of aldermen, board of commissioners or other governing body having charge of the locating and erecting of any such buildings as are mentioned in section one of this act, in any city of the first and second class in this state, to expend any moneys for the erection and completion of the same unless the said buildings are located and erected as provided for in section one of this act. Limitation of power to expend money for city halls in such cities.

1064. SEC. 3. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed in so far as their operation may conflict with this act. Repealer.

An act providing for the payment of claims incurred in repairing public buildings in any city.

Approved March 15, 1893. P. L. 1893, p. 335.

1065. SEC. 1. That in any city in this state where the board having charge and control of repairing public buildings shall have heretofore made any necessary or required repairs to any public building or buildings in excess of any appropriation or provision made or transferred to any such board for such purpose, then in such case, and upon the board of such city having charge and control of the finances therein being satisfied that such repairs have been made, said financial board shall make a sufficient appropriation for that purpose to said board having charge and control of such repairs, and the claims for the same shall thereupon be paid; that said financial board shall have power to borrow such additional appropriation by the issue of temporary loan bonds and to provide for the repayment thereof in the tax levy next thereafter to be made; *provided*, that such additional appropriation shall not exceed the sum of thirty-three hundred dollars. When appropriation for repairs to public buildings. Bonds may be issued. Proviso.

5. ASSESSMENTS FOR CITY IMPROVEMENTS.

An act relating to giving bonds for assessments in cities, and providing a mode of carrying the indebtedness thereby continued.

P. L. 1876, p. 293.

Approved April 21, 1876.

Ordinance may be passed authorizing the taking of bonds from owners of land for payment of assessments for benefits.

1066. SEC. 1. That whenever any assessment for benefits resulting from any improvement heretofore made or work heretofore done by order of the corporate authorities of any city in this state or any board or department thereof shall have been heretofore or shall be hereafter ratified and confirmed, and such proceedings taken in relation to the collection thereof as are now imposed by law, it shall be lawful for the board of finance in each city, or in the absence of such board, then the board of aldermen, council, common council or other legislative body of any such city, by an ordinance prescribing a general and uniform rule in that respect, which ordinance shall be approved by the mayor or other chief executive officer of such city, or if such mayor or other chief executive officer shall neglect or refuse to approve such ordinance within ten days after the same shall have been presented to him shall be passed by two-thirds of all the members of such board, council or other legislative body of such city, with the approval of the board of finance in any city where such board exists, to authorize the comptroller or other financial officer of said city to take from any of the owners of the land and real estate so assessed as aforesaid, a bond to the said city in double the amount of the said assessment conditioned for the payment of such assessment in such times and manner as prescribed in said ordinance, with interest from the date of said bond, upon the amount of said assessment at any time remaining unpaid, at the rate of seven per centum per annum, payable semi-annually, and after the adoption of such ordinance in manner aforesaid, upon said owner paying the cost and expenses of any sale for said assessments and interest on said assessments from the date of the ratification thereof to the date of entering into said bonds, at the rate now fixed by the charter of any such city, and giving to said city the bond prescribed by this act and such ordinance, it shall not be lawful for the said city to sell the land and real estate of the said owner entering into such bond for the payment of such assessment, unless failure be made in the payment of such assessment or any installment thereof or interest on said assessment remaining at any time unpaid according to the condition of said bond; and in case failure be made to pay said assessment or any installment thereof, [and] interest thereon, for thirty days after the same shall become due, the whole amount of the assessment and interest then remaining unpaid, may, at the option of said city, at the expiration of said thirty days, become and be due and payable, and the said city upon failure in payment as aforesaid, may thereupon either sue said bond or sell said land and real estate for the amount of the assessment so remaining unpaid, the same as though said bond had not been given, and the amount realized by said suit or sale shall be placed to the credit of the commissioners of the sinking fund of said city, if any such exist, and if none, then to the credit of said city to the proper account, or paid over to the holder or assignee of said bond, or to the legal representative of the said holder or assignee, if such bond has been assigned; *provided*, that the receiving said bond shall in no way affect or impair the lien of said city upon the land and real estate assessed during the time said obligation shall continue in force and unpaid, and during the said time sale may be made upon default as herein provided; *and provided further*, that any owner of property which has been heretofore assessed for benefits for any improvement shall enter into said bond within six months from the time such city shall determine to accept said bonds in settlement of said assessment in the manner herein prescribed, and that any owner of property whose land shall be hereafter assessed as aforesaid for work heretofore done, shall enter into said bond within sixty days from the first publication of the notice of said assessment now required by law to be published; *and provided further*, that no bond shall be taken by the

Interest.

Not lawful to sell real estate of owner entering into such bond.

On failure to pay, city may either sue on bond or sell real estate.

Proviso.

Proviso.

Proviso.

comptroller or other financial officer in cases where a sale of the property heretofore assessed shall have taken place, and any person other than the said city, by its corporate name or otherwise, or some officer thereof for the use of said city, has become the purchaser thereof; *and provided further*, that no bonds shall be taken under the provisions of this act for a longer time than ten years, nor for the payment of less than one-tenth of the principal of such bond in each year said bond shall run; *and provided further*, that the ordinance in this section mentioned may contain a provision that the whole or any part of the interest which shall have accrued on said assessments may be included in the principal of said bonds, and in that case the owner may, upon payment of the costs and expenses of any sale for said assessments, and of so much of said interest as is not so ordered to be included in said bond, and giving bond as so prescribed, have the relief permitted by this act if otherwise within the provisions of this section, being liable however to sale in case of default in any payment as herein provided.

Proviso.

Proviso.

1067. SEC. 2. That where any assessment has been made or shall be hereafter made in connection with any improvement heretofore made against any such owner, to whom, in the prosecution of such improvement, an award of damages has been or shall be made, and which said award has not been paid by the said city, the bond provided for in the foregoing section of this act shall be given for the difference only between such award of damages and assessment for benefits, if said assessment exceed said award of damages, in which case the said owner shall give to the said city a proper receipt and acquittance for the amount of said award of damages.

When an award for damages has been made, bond to be given for difference between award and assessment.

1068. SEC. 3. That in order to meet the costs and expenses of said improvements, for which persons assessed may, at the option of the governing power of any such city, give bonds as aforesaid, any such city may, by resolution of the board or other body in such city now authorized to direct the issue of city bonds, issue its bonds under the signature of its mayor, with its corporate seal affixed, and countersigned by its comptroller or other financial officer, for such an amount as its said city shall have taken bonds for, under the provisions of this act, which bonds of said city shall be payable at such time or times as they shall designate, not longer than ten years, bearing interest at seven per centum per annum, payable semi-annually, and that all moneys received in payment of the said assessments, for which the bonds of persons assessed shall be received as aforesaid, under the provisions of this act, are hereby pledged and appropriated to the commissioners of the sinking fund of said cities, where such commissioners exist, or where no such commissioners exist, then the same are hereby pledged and appropriated as the board of finance, or if no such board, as the board of aldermen, council or other legislative body of said city may direct or determine for the payment of the principal and interest of said bonds hereby authorized; *provided further*, that the provisions of this section shall not apply to or affect any city which, by its charter or the supplements thereto, now has power to issue its bonds to provide for the costs and expenses of such improvements.

City may issue bonds to pay costs and expenses of improvements for which persons assessed have given bonds.

All moneys received pledged to payment of bonds.

Proviso.

1069. SEC. 4. That nothing in this act shall in any way affect or impair any law heretofore passed relating to the giving of bonds for assessments, as herein provided, to any municipal corporation in this state, and that this act shall take effect immediately.

Laws heretofore passed not to be impaired.

An act respecting assessments in cities.

Approved April 21, 1876. P. L. 1876, p. 296.

1070. SEC. 1. That hereafter in assessing the costs and expenses of street and sewer improvements in any city of this state, the commissioners of assessment in every city, or such city surveyor, person or other persons as are or may be authorized by law in any city to make an assessment for such improvements, shall, in the respective cities for which such commissioners of assessment, city surveyor, person or other persons are or may be lawfully appointed to make assessments, assess the cost and expense of all street and sewer improvements upon the land and real estate benefited

Costs and expenses of street and sewer improvements to be assessed upon lots, &c., in proportion to benefit received.

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by such improvements, and in proportion to the benefits thereby received; in making which said assessment hereby authorized for street or sewer improvements in any city of this state, the same shall be made and assessed upon the several lots or parcels of land benefited by such improvement in proportion to the benefit received by each one of said lots or parcels of land, and no lot or parcel shall be assessed more than it is benefited; *provided*, that if the total cost and expense of an improvement exceed the aggregate amount of assessable benefits, then only so much of said cost and expense as equals the aggregate amount of such benefits shall be so assessed, and the remainder of such cost and expense shall be borne by the city at large and paid in the manner provided by law. (*a*)

Proviso.

Supplement.

P. L. 1886, p. 346.

Passed May 11, 1886.

Repealer.

1071. SEC. 1. That all acts or parts of acts, either general or special, and all or any provisions of any city charter which are inconsistent with the provisions of the act to which this is a supplement, be and the same are hereby repealed.

An act relating to re-assessments of benefits in cities.

P. L. 1876, p. 378.

Approved April 21, 1876.

1072. SEC. 1. [Amended by Sec. 1073, *post.*]

Supplement.

P. L. 1880, p. 59.

Approved February 27, 1880.

1073. SEC. 1. That section one of an act entitled "An act relating to re-assessments of benefits in cities," which reads as follows [see P. L. 1876, p. 378], be and is hereby amended to read as follows:

Where assessments have been set aside as to one or more prosecutors only, circuit court may appoint commissioners to make new assessment.

[That where any assessment for benefits for local improvements heretofore made or hereafter to be made in any city of this state, has been or shall be set aside only as to the prosecutor or prosecutors of any writ or writs of certiorari, by any court of review, the common council or board of aldermen of said city shall ascertain and estimate the amount of the assessment or assessments so set aside, together with the lawful interest accrued thereon, and the costs and expenses of a new assessment, and thereupon a new assessment shall be made by three commissioners appointed by the circuit court of the county in which such city is situated, in conformity with the provisions of any existing law of this state; and in making such re-assessment, the persons authorized to make the same shall assess upon all the owners of the lands and real estate peculiarly benefited by said improvement an amount of the assessment so set aside which is equal to the amount of benefits actually received by said lands and real estate proportioned as nearly as may be to the benefit each owner thereof shall be deemed to acquire, and the balance of said assessment so set aside and remaining unassessed shall be assessed upon and paid by the said city, and said persons authorized to make said re-assessment shall proceed in all respects as provided in respect to the original assessment; but in making such re-assessment any tracts of land and real estate originally assessed for the benefits of said improvement, and the original assessment upon which shall not have been set aside, shall not be liable to be re-assessed.]

(*a*) Assessors not authorized to levy distinct assessments upon the component parts of a tract of land which the owner has always treated as an entirety. *Muller* v. *Bayonne*, 26 *Vr.* 102. If it appear that commissioners, authorized to levy an assessment, for the construction of a sewer, upon an entire tract of land on which there are valuable buildings, have ignored the existence of the building and levied distinct assessments upon the parts of the tract, dividing it by lines which intersect the buildings, the court cannot infer that the benefit accruing to the entire tract is the aggregate of these distinct assessments. *Ib.*

An act relating to the refunding, by municipal corporations in this state, of moneys paid to said corporations by owners of property for assessments for benefits for local improvements in certain cases.

Passed February 27, 1877. P. L. 1877, p. 23.

Preamble.

WHEREAS, Large numbers of assessments for local improvements in different cities of this state have been heretofore and may be hereafter entirely or partially set aside by the courts of this state having jurisdiction thereof, or other competent authority, by reason of defects in the laws under which said assessments were made, or for other cause, or have been illegally made; *and whereas*, in many instances considerable sums of money have been and may be hereafter paid by the owners of property assessed for said improvements to the proper receiving officers of said cities, which sums of money said cities may be legally liable to refund to said owners so paying said assessments heretofore set aside or that may be hereafter set aside as aforesaid, or that may have been illegally made; *and whereas*, great and unnecessary embarrassment will arise to said cities and the taxpayers thereof if said cities are compelled to refund at once to said persons so paying or having paid as aforesaid the said moneys assessed for said improvements, and it is therefore desirable and proper that said cities should be authorized to delay repayment of said money until such time as re-assessments for benefits for said local improvements may be made in conformity with existing laws; *provided*, said re-assessments are made within a reasonable time, and to set off as against such repayment the amount of any such re-assessment made for benefits for said local improvements; therefore, (*a*)

Money paid on illegal assessments to cities for public improvements to be refunded.

1074. SEC. 1. That in all cases where assessments for benefits for local improvements in the cities of this state have been or may hereafter be set aside by the courts of this state, or other competent authority, by reason of defects in the laws under which said assessments were or shall be made, or for other cause, or have been made under the provisions of any law of this state, which provisions have been declared by the courts thereof to be unconstitutional and void, and owners of property assessed for said improvements have paid or may hereafter pay to said municipal corporations the sums of money so assessed against them for benefits for local improvements, or part thereof, the moneys so as aforesaid paid by any owner assessed as aforesaid, who shall now be legally entitled to recover the amount paid as aforesaid, shall be refunded by said municipal corporations so receiving the same; but the refunding and collection of said sums of money paid for assessments for said local improvements, and the further prosecution of any suits now pending to recover such sums of money, shall be stayed and delayed until such time as a re-assessment for benefits for said local improvements shall have been made by commissioners or other persons lawfully appointed and authorized to make the same; *provided, however*, that interest upon the sums of money so paid as aforesaid for assessments for local improvements set aside or illegally made as aforesaid shall be collected on final settlement from said municipal corporations to the extent and no further that said parties would now be entitled to recover the same up to the time of final adjustment; *and provided further*, that where assessments for benefits for local improvements have been heretofore set aside for the causes aforesaid, or have been illegally assessed as aforesaid, said re-assessment for said improvements shall be made and completed within two years from and after the passage of this act; and in cases where assessments for benefits for local improvements shall be hereafter set aside for the causes aforesaid, said re-assessments for said improvements shall be made and completed within two years from the date of the setting aside of said assessments; *and provided further*, that nothing in this act contained shall affect in any way the validity of any

Refunding to be stayed until new assessments made.

Proviso.

Proviso.

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(*a*) This act created a statutory obligation on the part of such corporations to refund money paid on assessments afterwards vacated, in the manner herein described, to which obligation the statute of limitations does not apply. *Smith* v. *Jersey City*, 23 *Vr.* 184. See *Norris* v. *Elizabeth*, 22 *Vr.* 493.

assessment or re-assessment for benefits for local improvements heretofore made; but in cases where said re-assessments are made and completed prior to the time limited in this act for the refunding of said moneys, the said moneys so as aforesaid paid shall become due and payable at once upon the ratification of said re-assessments, and shall be applied in settlement of said re-assessments; and said re-assessment with legal interest thereon from the time the said re-assessment is confirmed, shall be a lawful set-off by the said municipal corporation as against the amount legally recoverable by the person entitled to recover any money paid on any such original assessment, set aside or void as aforesaid, and the same may be pleaded in any action that is now or may hereafter be pending at any time after such re-assessment is made and confirmed as aforesaid; *and provided further*, that if any writ of certiorari be granted to review any such re-assessment or part thereof, the time to plead the set-off by said municipal corporation shall be extended until after the final determination of said certiorari. (*a*)

Proviso.

Act applicable to pending suits.

1075. SEC. 2. That the provisions of this act are hereby declared to be applicable to all suits now pending in any court of this state for the collection of moneys paid by any owner of property, or other person representing said owner, for assessments for benefits for local improvements which have been heretofore set aside as aforesaid; *provided, however*, that all costs incurred by the plaintiffs in such suits, at the time of the passage of this act, shall be paid by the respective defendants therein.

Proviso.

Person claiming repayment of assessment may have same applied upon any other assessment.

1076. SEC. 3. That any person claiming from any city the repayment of any money paid by him or his assignor for such assessment, may give notice in writing to said city of his desire that such money be applied by said city to cancel or reduce the indebtedness of said person to said city upon any other assessment, and thereupon said city shall apply any balance found due to the person giving such notice upon the re-assessment and adjustment in this act directed for the purposes specified in such notice; and the application of such balance upon the assessments specified in such notice shall be considered as made at the time of the receipt of such notice by said city.

A further act in relation to assessments in cities.

P. L. 1877, p. 55.

Approved March 7, 1877.

Common council, &c., may vacate certain illegal assessments.

1077. SEC. 1. That whenever the costs, damages and expenses of any improvement, other than for the laying of sidewalks, in any city in this state, have been assessed wholly upon the line of such improvement, or wholly upon the owners of the lands along such line, the common council or other legislative body of such city, or any commissioners of streets and sewers in said city, or the board of finance and taxation in any city where such board exists, may vacate and set aside, by resolution, all the proceedings in relation to such void assessments; and in order to provide for the payment of the costs, damages and expenses of such improvement, an assessment of such costs, damages and expenses may be levied by the officers of such city, or any commissioners in said city, qualified by law to make such assessments in the first instance, at any time within two years from and after the passage of this act; and in making such assessment, the person or persons authorized to make the same shall assess upon all the tracts or lots of land and real estate benefited by such improvement such proportion of such costs, damages and expenses as will be equal to the amount of benefits actually acquired by said lands and real estate from such improvement, proportioned equitably to the benefit each of such tracts or lots shall be deemed to acquire; and the balance of such costs, damages and expenses, if any, remaining unassessed, shall be a debt upon and paid by such city out of moneys provided for that purpose by the

New assessment to be made.

(*a*) Where an action is brought for moneys paid on an assessment which has been set aside, the municipal corporation is authorized by the above act, in case a re-assessment for the same improvement has been made and ratified, to apply the moneys paid in settlement of the new assessment, and the re-assessment, with interest from its confirmation, is expressly declared to be a lawful set-off in such action against the moneys recoverable thereby. *Turrell* v. *City of Elizabeth*, 14 *Vr.* 273.

legal authorities of such city, according to the provisions of any law of this state. (*a*)

Any assessment, other than for sidewalks, &c., may be set aside and re-assessment made.

1078. SEC. 2. That any assessment for any improvement, other than for the laying of sidewalks, or such as are mentioned in the first section of this act, whether the same has been confirmed by such city council or other legislative body, or any other board in said city or not, or commissioners in said city, may be vacated and set aside by such legislative body, or commissioners of streets and sewers, or said board of finance and taxation in cities where such board exists, by resolution, and a re-assessment made as if such assessment so vacated had never been made; *provided*, that no such assessment shall be so set aside after the whole assessment for the improvement shall have been paid.

Proviso.

Provisions for agreeing upon a rebate of assessments where same exceed benefits.

1079. SEC. 3. That where any assessment for any improvement, except the laying of sidewalks, which has been heretofore made, or shall hereafter be made, in any such city, shall be, in the judgment of the commissioners of the sinking fund of such city, if there be any, or, if there be none, then of the city council or other legislative body thereof, or of any commissioners of streets and sewers in said city, or of the board of finance and taxation in cities where such board exists, greater than the benefits conferred upon the lands assessed by the improvement for which the assessment is made, such sinking fund commissioners, or legislative body, or commissioners of streets and sewers, or such board of finance and taxation, as the case may be, may agree with any or all of the owners of lands so assessed for a rebate of such assessments, either from the specific assessments upon such lots respectively or by a rebate of a certain percentage from the whole of such assessment, which rebate shall be authorized by a resolution of such sinking fund commissioners, or legislative body, or commissioners of streets and sewers, or by said board of finance and taxation in cities where such board exists, as the case may be, to be approved by the mayor or other chief executive officer of such city in cases in which the rebate shall be authorized by such legislative body, or commissioners of streets and sewers in said city, or such board of finance and taxation; and in cases in which it shall be authorized by such sinking fund commissioners or said board of finance and taxation, to be approved both by such chief executive officer and by the legislative body of such city, or commissioners of streets and sewers in said city, or by said board of finance and taxation, by the votes of a majority of such body or board; and the said sinking fund commissioners, or said board of finance and taxation, if there be any, or, if there be none, such legislative body or such commissioners of streets and sewers, may agree on the part of such city with the owner or owners of any land so assessed for the payment or composition of any such assessments, which agreements shall in all cases be approved in like manner as such resolutions authorizing a rebate of any assessment, and all such agreements shall be good and effectual in law between the parties thereto.

Lands purchased by city for non-payment of assessments may be sold at public auction when time for redemption has expired.

1080. SEC. 4. That in all cases in which any lands have been sold by any city to raise and pay any assessments or taxes levied upon the same, and such city has bought such lands at such sales, and the time for the redemption of the same from the effect of such sales under the provisions of the charter of such city has expired, the common council or other legislative body of such city, or said board of finance and taxation in cities where such board exists, may authorize the sale at public auction of all the estate of such city in such lands; and upon such sale being made, a deed of conveyance of such estate shall be executed to the purchaser under the signature of the mayor or other chief executive officer and the seal of such city, to be attested by the clerk of such city as a subscribing witness; *provided*, that

Proviso.

(*a*) When an assessment has been made for municipal improvements, and paid, and subsequently such assessment is vacated and set aside, and a re-assessment made for a less sum than the original assessment, an action will lie to recover the difference between the first and second assessments. *Mayor, &c., of Jersey City* v. *Green*, 13 *Vr.* 627. The right of action accrues by reason of the setting aside of the former assessment and the making of a new assessment, and such right cannot be barred by the statute of limitations until the running of six years after that act. *Ib.* (See, also, note in 14 *Vr.* 666.) The above act authorizes the vacation of the entirety of void assessments, and is not restricted to such as are unpaid. *Ib.* On the assumption that the first section of the above act does not give authority to the designated municipal officers to set aside an assessment made upon the property not abutting on the street improved, it follows that the second section does confer such authority. *Mayor, &c., of Jersey City* v. *Carson*, 14 *Vr.* 664. See *Norris* v. *Elizabeth*, 22 *Vr.* 493.

no such sale shall be had until the same shall have been advertised four weeks in one newspaper published and circulating in such city once in each week.

Supplement.

P. L. 1877, p. 174.

Approved March 9, 1877.

Certain sections not to extend or apply to Jersey City or the city of Paterson.

1081. SEC. 1. That the first, second and third sections of the act to which this is a supplement, which are in the following words [see Secs. 1077, 1078 and 1079, *ante*], shall not extend or apply to any assessment acted upon, made or determined by virtue of the act entitled "An act to adjust unpaid assessments in Jersey City," approved March twenty-sixth, eighteen hundred and seventy-three, nor to any assessment acted upon, made or determined by virtue of an act entitled "An act to adjust unpaid assessments in the city of Paterson," approved April ninth, eighteen hundred and seventy-five.

An act relating to the refunding by commissioners of streets and sewers, or any other commissioners in any city in this state, of moneys paid to any such commissioners by owners of property for assessments for benefits for local improvements where said assessments have been subsequently set aside.

P. L. 1877, p. 183.

Approved March 9, 1877.

Preamble.

WHEREAS, Large numbers of assessments for local improvements in different cities of this state have been heretofore and may be hereafter entirely set aside by the courts of this state having jurisdiction thereof, or other competent authority, by reason of defects in the laws under which said assessments were made, or for other cause, or have been illegally made; *and whereas*, in many instances considerable sums of money have been and may be hereafter paid by the owners of property assessed for said improvements to commissioners of streets and sewers in said cities, which sums of money said cities or said commissioners may be legally liable to refund to said owners so paying said assessments heretofore set aside or that may be hereafter set aside as aforesaid; *and whereas*, great and unnecessary embarrassment will arise to said cities and the taxpayers thereof if said cities or said commissioners are compelled to refund at once to said persons so paying or having paid as aforesaid the said moneys assessed for said improvements, and it is therefore desirable and proper that said cities or said commissioners, as the case may be, should be authorized to delay repayment of said money until such time as re-assessments for benefits for said local improvements may be made in conformity with existing laws; *provided*, said re-assessments are made within a reasonable time; therefore,

Money paid on illegal assessments to commissioners of streets and sewers for public improvements to be refunded.

1082. SEC. 1. That in all cases where assessments for benefits for local improvements in the cities of this state have been or may hereafter be set aside by the courts of this state, or other competent authority, by reason of defects in the laws under which said assessments were or shall be made, or for other cause, or have been made under the provisions of any law of this state which have been declared by the courts thereof to be unconstitutional and void, and owners of property assessed for said improvements have paid or may hereafter pay to commissioners of streets and sewers in any city the sums of money so assessed against such owners or their real estate for benefits for local improvements, or part thereof, the moneys so as aforesaid paid by any owner assessed as aforesaid, who shall be legally entitled to recover the amount paid as aforesaid, shall be refunded by said commissioners so receiving the same; but the refunding and collection of said sums of money paid for assessments for said local improvements shall be stayed and delayed until such time as a re-assessment for benefits for said local improvements shall have been made by such commissioners or by other commissioners or other persons lawfully appointed and authorized to make the same; *provided, however*, that interest upon the sums of money so paid as aforesaid for assessments for local improvements set aside as aforesaid, shall be collected on final settlement from said commissioners at

Refunding to be stayed until new assessments made.

Proviso.

the rate of seven per centum per annum from the date of the payment of said assessments up to the time of final adjustment; *and provided further*, that where assessments for benefits for local improvements have been heretofore set aside for the causes aforesaid, or have been illegally assessed as aforesaid, said re-assessment for said improvements shall be made and completed within two years from and after the passage of this act; and in cases where assessments for benefits for local improvements shall be hereafter set aside for the causes aforesaid, said re-assessments for said improvements shall be made and completed within two years from the date of the setting aside of said assessments; *and provided further*, that nothing in this act contained shall affect in any way the validity of any re-assessment for benefits for local improvements heretofore made; but in cases where said re-assessments are made and completed prior to the time limited in this act for the refunding of said moneys, the said moneys so as aforesaid paid shall become due and payable at once upon the ratification of said re-assessments, and shall be applied in settlement of said re-assessments, and the balance, if any in favor of the person so paying, refunded. (*a*)

Proviso

Proviso.

1083. SEC. 2. That the provisions of this act are hereby declared to be applicable to all suits now pending in any court of this state for the collection of moneys paid by any owner of property, or other person representing said owner, for assessments for benefits for local improvements which have been heretofore set aside as aforesaid; *provided, however*, that all costs incurred by the plaintiffs in such suits, at the time of the passage of this act, shall be paid by the respective defendants therein.

Act applicable to pending suits.

Proviso.

An act concerning bonds given for the payment of assessments in cities.

Approved April 3, 1878. P. L. 1878, p. 261.

1084. SEC. 1. That in any city in this state where, in lieu of cash payment of assessment or assessments for any street or public improvements, a bond or bonds shall have been or may hereafter be given by the owner of any property assessed, payable to the city treasurer of such city, conditioned alone or among other things for the payment of any such assessment or part of such assessment, with interest at any rate exceeding the rate of seven per centum per annum, it shall be lawful for the city treasurer of such city, with the consent of the mayor and board of council of such city, to receive in full payment of such bond the principal thereof, with interest at and after the rate of seven per centum per annum from the date of the bond, notwithstanding any breach of the condition of any such bond, or any provision in said bond, or of any statute to the contrary; *provided*, that where such bonds are pledged to commissioners of the sinking fund of any city for the benefit of a sinking fund, it shall not be lawful to take payment of a rate of interest less than the amount provided for in the bonds without a resolution adopted by such commissioners, prescribing a general and uniform reduction of the rate of interest on said bonds.

City treasurer authorized to receive in payment of bond given for assessments the principal with interest, notwithstanding breach, &c.

Proviso.

1085. 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.

An act concerning past-due assessments in certain cities of this state.

Approved March 11, 1880. P. L. 1880, p. 251.

WHEREAS, In certain cities of this state, many of the benefit assessments for local improvements heretofore made by commissioners against the owners of lands and real estate, claimed to have been specially benefited thereby, were laid upon illegal and erroneous principles and without regard

Preamble.

(*a*) This act is one providing for the refunding of money which has been, or may be, paid for an assessment which is thereafter set aside. It provides that the money need not be refunded until such time as a re-assessment shall have been made, provided that such re-assessment, if the first is already set aside, shall be made within two years from the passage of the act. The act only affects the refunding of moneys which any property-owner has paid under the vacated assessment. He must wait until a new assessment is made, unless there is a delay of two years. If there is such delay, he can then recover. *Righter* v. *Newark*, 16 *Vr.* 111.

to the peculiar benefit derived by reasons thereof as required by law, which assessments were intended to be legal and valid liens on such lands and real estate; *and whereas*, collections thereof cannot be enforced by the corporate authorities of such cities, but such assessments are liable to be vacated by the courts; *and whereas*, in many instances, the owner or owners of such property are willing and desirous to free the same from the pretended lien thereof, and to pay an amount equal to the peculiar benefit derived, and it is to the mutual advantage of all parties in interest that such assessments should be so equitably settled; therefore,

Common council empowered to rebate and reduce assessments for local improvements.

May agree to arbitrate assessments on application of owners.

1086. SEC. 1. That the common council or governing body of any city, as the case may be, at their discretion, after proper inquiry made, are hereby empowered and authorized to rebate and reduce such assessment or assessments, and to accept such lesser amount in full payment and satisfaction thereof, or such common council or other governing body may agree to arbitrate such assessment or assessments upon application from such owner or owners that such course be adopted, such petitioner or petitioners to bind himself or themselves in writing to submit to, abide by and pay the amount awarded by such arbitration, and that such award, from the date of its signing, shall be a legal, valid and effectual lien on the lands and real estate covered by such illegal and erroneous assessment; and further, that such award may at any time, upon five days' notice in writing, be made a rule of the circuit court of the county wherein such city may be situate, and from and after the entry thereof, such owner or owners shall be personally liable for the payment of the amount so awarded.

On refusal of council to arbitrate, owner or owners may apply to justice of supreme court for appointment of arbitrators.

Arbitrators to make awards, &c.

1087. SEC. 2. That in case such common council or other governing body shall refuse to arbitrate such illegal and erroneous assessment or assessments, the owner or owners of such lands and real estate may, upon the giving of five days' notice in writing, make application to a justice of the supreme court for the appointment of arbitrators to determine and settle the question of the peculiar benefit derived by such lands and real estate by reason of such improvement or improvements, and such justice, in his discretion, upon good cause shown, may appoint two discreet and impartial persons as such arbitrators, who shall make and sign an award or report in writing, stating therein the amount of such peculiar benefit; the same to be binding and conclusive; said award or report may likewise be made a rule of the circuit court of the county wherein such city is situate, and from the date of the entry of such rule render such owner or owners personally liable; and further, if such arbitrators be unable to agree, they are authorized and empowered to choose a third person to act with them as arbitrator, in such case, the award of any two of such arbitrators as to the amount of the peculiar benefit to be binding and conclusive.

An act requiring the refunding of moneys overpaid in certain cases.

P. L. 1881, p. 80.

Approved March 3, 1881.

1088. SEC. 1. [Amended by Sec. 1089, *post.*]

Supplement.

P. L. 1882, p. 162.

Approved March 23, 1882.

1089. SEC. 1. That the first section of the act to which this is a supplement be amended to read as follows:

Overpayment of interest on assessments for street or sewer improvements to be refunded.

[That whenever any overpayment has been made by any person in any city of this state of interest on any assessment for sewers or other street improvements, through inadvertence or misconception of the period from which the interest lawfully accrued, or the rate of interest by law permitted, it shall be the duty of common council or other legislative body by resolution, to direct the treasurer of any such city to refund on demand the amount of such overpayment, with lawful interest thereon, said amount and interest to be ascertained and fixed by the officer or incumbent successor in office of the officer to whom such overpayment was paid; *provided*, that where any amount is adjudged to be due to any person, by

Proviso.

virtue of such overpayment, who has any assessments or taxes unpaid, the amount due such person shall be credited to the account of such unpaid taxes or assessments, and the balance, if any, paid over as herein provided.]

An act relating to re-assessments in cases where a former assessment is or has been vacated, not as a whole, but as to one or several prosecutors only.

Approved March 23, 1883. P. L. 1883, p. 196.

1090. SEC. 1. That in all cases where an assessment of benefits for a local improvement in any city of this state shall have been or shall be set aside by the supreme court of the state, not as a whole, but only as to the persons prosecuting such suit, the common council or other legislative body of said city may appoint three commissioners, being freeholders and residents therein, whose duty it shall be to ascertain and determine, to the best of their judgment, the actual and peculiar benefit which the property affected by said suit has received from the said improvement for which it was originally assessed; and the said commissioners are hereby authorized and empowered to re-assess upon the said property an amount equal to the said benefit; in making such re-assessment the said commissioners shall assess upon the said property no more than the proportionate amount of the costs of said improvement which said property should bear in comparison with other property benefited thereby, and they shall so state in their report; but it shall not be necessary for said commissioners to set out at length in said report the amount of the benefits to any other property than that which is affected by their said proceeding.

Where assessment has been set aside as to the prosecutors only, common council, &c., may appoint commissioners to make new assessment.

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1091. SEC. 2. That each of the said commissioners, before they enter upon the execution of the duties required of them, shall severally take and subscribe an oath or affirmation before an officer authorized to administer oaths and affirmations, to make the said assessment fairly, legally and equitably, according to the best of their skill and understanding; and the said commissioners shall receive such compensation for their services as may be fixed by the common council or other legislative body.

Commissioners to take and subscribe oath.

Compensation.

1092. SEC. 3. That before completing their said assessment, the said commissioners shall cause notice to be given, in the manner now required by law in such cases, of the time and place of hearing any objections that may be made thereto, and after hearing the same they shall make a report of their said assessment to the said common council or other legislative body; upon the coming in of any such report signed by the said commissioners, or any two of them, the said common council or other legislative body may confirm, modify or reject the same; in case of rejection, appoint other commissioners to make said assessment, who shall proceed in the same manner as herein provided for commissioners first appointed, and so, from time to time, until a report shall be made or returned which the said common council or other legislative body shall confirm; the said report, when so confirmed, shall be final and conclusive, as well upon the said city as upon the owners of any land and real estate affected thereby, and the said assessment shall be a first lien upon the property so assessed, and shall be collected and enforced in all respects as now authorized by law in the city wherein said assessment is made.

Commissioners shall give notice of time and place of hearing objections, &c.

1093. SEC. 4. That all acts or parts of acts inconsistent herewith are hereby repealed, and this act shall be a public act and go into effect immediately.

Repealer.

An act to provide for the making and collection of benefit assessments for the construction of sewers in the cities of this state in certain cases.

Approved April 28, 1887. P. L. 1887, p. 231.

1094. SEC. 1. That where in any city sewers have been or may be constructed, forming a trunk line into which lateral sewers may discharge, and through which the surface drainage and sewage of a district may be carried to tide-water or other receptacle, it shall and may be lawful in assessing the

On constructing trunk sewers, assessments may be made throughout entire drainage district.

benefits which have been or may be conferred upon property by the construction of such trunk line of sewers for the commissioners appointed or to be appointed to assess such benefits, to assess the same as follows: such assessments may be made upon all the property benefited and to be benefited within the entire drainage district, and where a direct tapping benefit is or may be secured, either by connecting with the trunk line or lateral sewers already constructed, the assessments when finally confirmed shall be collectible at once, as in other cases, and where the benefit is prospective and depends upon the construction of lateral and connecting sewers not yet built, in every such case the assessments made upon such property shall constitute a first lien thereon at and from the time when the lateral sewer is constructed, connecting the property assessed with such trunk line, and shall be collectible at the same time the benefits assessed thereon for the construction of such connecting lateral sewer is or may be by law collectible, and shall draw interest only from the time the assessment for benefits made upon property along the line of such lateral sewers for the construction thereof is confirmed. (*a*)

Assessments, how collected, and to remain a lien.

1095. SEC. 2. That in estimating and ascertaining the proportion of the cost which may be assessed upon property not upon the line of any such trunk sewer or sewers, the said commissioners shall first ascertain the benefits conferred upon property along the line of the same which can connect therewith, and shall deduct the total of such benefits from the entire cost, and they may assess the balance of the cost upon other property benefited and to be benefited by the construction of lateral or connecting sewers so far as the same is or may be peculiarly benefited thereby. (*b*)

Manner of making assessments in such cases.

1096. SEC. 3. That if in any case different portions or sections of any trunk line sewers is or may be constructed under different acts, requiring a different disposition of the moneys collected from benefit assessments, that in every such case a separate assessment shall be made for each portion or section in order that a lawful application may be made of the moneys derived from such assessment when received.

When separate assessments shall be made.

1097. SEC. 4. That in all such cases the benefit assessments so made shall be limited to and shall not exceed the peculiar and special benefit which such lot or parcel of land assessed has received, or will receive when lateral connections are made as aforesaid, and be made as near as may be in proportion to the benefits each shall be deemed to acquire.

Assessments not to exceed benefits.

An act to authorize and empower commissioners of assessments in cities of this state to assess for damages on street improvements.

P. L. 1888, p. 471.

Approved April 23, 1888.

1098. SEC. 1. That it shall and may be lawful hereafter for the commissioners of assessments in cities of this state now having power to assess lands and real estate for benefits by reason of street improvements, but without power to assess damages therefor, to estimate and consider, and include in their report as such commissioners, such damages as they may consider property, lands and real estate on the line of said improvement to have suffered.

Commissioners to assess benefits for street improvements shall also award damages.

1099. SEC. 2. That whenever said commissioners of assessments shall have estimated, considered and included in their report the damages suffered as aforesaid, the owners of property, lands or real estate on the line of such improvement shall have the same remedy and privileges by way of appeal from the said report as are now accorded and given by the respective charters of the cities of this state in which such assessment may be made, to other owners of property specially assessed for benefits accruing from said assessment, and no other or different remedy or privilege.

Remedy of owners by way of appeal from award.

(*a*) This act was construed by the supreme court not to repeal previously-existing provisions for making assessments for the cost of trunk sewers, contained in the charters of the cities of the state, but only to afford an additional mode for making such assessments, if the act is within legislative authority. *Morris* v. *Bayonne*, 24 *Vr.* 299. But the court of errors has held that it repeals and supersedes the provisions of city charters on the same subject. *Central Land Co.* v. *Bayonne*, 27 *Vr.* 297. *Post* v. *Passaic*, 27 *Vr.* 421. The words "it shall or may be lawful" in act must be construed to mean "must;" the act is not optional. *Central Land Co.* v. *Bayonne*, 27 *Vr.* 297.

(*b*) The provision that the cost of the sewer shall be assessed on the frontage to the full extent of the benefits received, and that the balance only of the cost shall be levied on other property benefited, is valid and constitutional. *Central Land Co.* v. *Bayonne*, 27 *Vr.* 297.

1100. SEC. 3. That whenever the said commissioners of assessments shall fail to assess for damages as hereinbefore provided, the owners of property, lands or real estate shall have the same rights now provided by law in cases where said commissioners of assessments have no power to make such assessments. Rights of owners when commissioners fail to award damages.

1101. SEC 4. That nothing in this act contained shall be considered as authorizing or empowering any board of commissioners of assessments to extend their said assessments for damages beyond the property specially benefited, and then only to the extent of the benefits received, as in the case of assessments for benefits as now provided for by law. Assessments not to extend beyond property benefited.

1102. SEC. 5. That all acts and parts of acts inconsistent herewith, be and they are hereby repealed, and that this act shall be a public act, and shall take effect immediately. Repealer.

An act to authorize cities to divide the assessments for benefits for street improvement on the lands benefited.

Approved March 24, 1890. P. L. 1890, p. 114.

1103. SEC. 1. That where there are lots or lands not laid out in lots, owned in part by different persons, fronting on any street which has been or hereafter shall be graded, curbed, guttered, sewered, or either of them, or otherwise improved by the authorities of any city in this state, the cost of which is to be assessed on the land benefited by such improvement, that the officers charged with the duty of making such assessment shall assess each part of lot or lots and land benefited according as such part or parts of such lot or lots of land are held by the several separate owners, charging to each part of such lot or lots and lands a separate assessment according to the benefits received, and to assess the balance thereof against the city at large. When assessments may be made upon parts of lots benefited.

An act relating to the collection of assessments for street and other improvements in the cities of this state.

Approved March 4, 1891. P. L. 1891, p. 73.

1104. SEC. 1. That in all cases in which assessments are made upon any lands for improvements made in the cities of this state the same shall not bear interest if paid within forty days after the same shall have been confirmed; if not paid within forty days after confirmation the same shall bear interest at the rate of six per centum per annum, if paid within six months after confirmation; and if not paid within six months after confirmation then interest at the rate of eight per centum per annum shall be charged and collected thereon. Rate of interest on unpaid assessments.

1105. SEC. 2. That it shall be the duty of the officer charged by law with the collection of such assessments, within ten days after notice of the confirmation thereof has been received by him, to give notice in the manner herein directed to the owners of the lands so assessed of the amount of such assessment and of the provisions of this act with relation to the interest thereon; such notice may be given by publication in one or more of the newspapers authorized by law to publish official notices in such city, or by mailing the same, postage prepaid, directed to said owner or owners at their last-known address; and the expenses incurred in giving such notice shall be apportioned by such officers and added to the assessments so made upon the real estate of the owners so notified; *provided*, that if in any case the name of the owner or owners cannot be ascertained then such published notice shall shortly describe the property assessed and state that the owner is "unknown;" *provided, further*, that the failure to give such notice in any case shall not in any way affect or impair the validity of such assessments or prevent the collection thereof. Notice of assessment and of the provisions of this act to be given. Proviso. Proviso.

An act concerning assessments for benefits and awards for damages in the opening of streets in cities of this state, and providing for a new assessment and award.

P. L. 1893, p. 83.

Approved March 1, 1893.

When certiorari is brought, supreme court may appoint commissioners to make new assessment for street improvement. Proceedings thereon.

1106. SEC. 1. That in all cases where writs of certiorari may be brought to remove assessments for the costs and expenses of laying out or opening any street in any city of this state, it shall be lawful for the supreme court or one of the justices thereof, in term or vacation, on the application of the city to appoint three commissioners to make a new assessment of the costs and expenses thereof, and a new award of damages for the land taken in such improvement, and the commissioners so appointed shall proceed to make a new assessment and award upon the same principles and in the same manner as if they had been the original commissioners, and shall give such notice of a hearing before them, and of the time when they will present their report to such court or justice, when objections may be presented to such report, as the court or justice may direct, and said commissioners shall present their report in writing, signed by a majority of them, to such court or justice, and such court or justice, after hearing the parties to such certiorari, if they appear, and such other parties in interest as shall appear at the time fixed for the presentation of said report and hearing thereon, may modify and confirm such report as to the court of justice shall seem just, and such report, when so confirmed, shall be final, both as to the assessments for benefits and awards for damages therein contained, and shall be in lieu of the original report; and all such assessments shall be collected and awards for damages paid in the manner provided in the statutes for collecting such assessments and payments of awards for such improvements, and such assessments shall be due from the date of the confirmation of such report, which shall be filed, together with the other papers, with the person charged with the duty of the collection of such assessments in the respective cities.

Unpaid taxes and assessments due city on lands taken shall be deducted from the award.

1107. SEC. 2. That in all cases where awards for damages are made for land taken in the opening of any street in any city of this state, there shall be at the time of the making of such award unpaid taxes and assessments due to such city on the lands so taken, the amount so due for such unpaid taxes and assessments, with all interest, shall be deducted from the award at the time of payment or tender thereof by the officer charged with the payment thereof.

Compensation of commissioners.

1108. SEC. 3. That such commissioners shall receive such compensation for their services as such court or justice shall order, to be paid by such city.

An act providing for the making of assessments, in certain cases, of benefits conferred by local improvements in cities of this state.

P. L. 1893, p. 279.

Approved March 14, 1893.

When supreme court may appoint non-resident commissioners to make assessment of benefits for local improvement.

1109. SEC. 1. That where, in any city of this state, a trunk or intercepting sewer has been or shall be constructed, or any local improvement has been or shall be made by such city, which sewer or improvement drains, covers, affects or benefits such a large area that, in the opinion of the common council or other governing body of such city, an estimate and assessment of the benefits conferred by such sewer or improvement ought to be made by freeholders residing outside of said city, not owning or interested in any real estate therein, upon the passage of a resolution by such governing body declaring such to be its opinion, the proper law officer of such city shall thereupon make application, upon ten days' public notice, to the justice of the supreme court holding the circuit in which said city is situate, for the appointment of three commissioners to make such estimate and assessment, and the said justice is hereby authorized and empowered to thereupon appoint as such commissioners three freeholders residing outside of such city, but in the state of New Jersey, who do not own and are not in any way interested in any real estate in said city.

1110. SEC. 2. That all such commissioners, when so appointed, shall, in all respects, be governed in making such assessments by the laws now or hereafter in force relating to and regulating the making and confirmation of assessments for local improvements in such city.

Commissioners to be governed by what laws.

6. MUNICIPAL BONDS.

An act to authorize cities to issue bonds to pay their floating debts.

Approved April 13, 1876. P. L. 1876, p. 141.

1111. SEC. 1. That it shall be lawful for each and every city in this state, whose charter or its supplements limit the amount of the bonded indebtedness of such city, when it has not already issued bonds in the aggregate amount equal to the indebtedness allowed to be created by its charter and supplements thereto, to issue additional bonds in the aggregate to such an amount as will be equal to the difference between the amount already issued and the amount of indebtedness allowed to be created by its charter and supplements thereto, to be executed in the manner provided by its charter, and dispose of and sell the same, and from the proceeds arising from the sale thereof pay its floating debt as far as the proceeds thereof shall be available.

When additional bonds may be issued by cities to pay floating debt.

1112. SEC. 2. That in construing the meaning of the word "debt" or indebtedness in the charter of any city in this state, where it has reference to the amount of debt which any such city may create, it shall be understood to mean and include the floating as well as the bonded or funded debt of said city already incurred.

Construction of word "debt."

An act in respect to bonds guaranteed by cities.

Approved April 13, 1876. P. L. 1876, p. 142.

1113. SEC. 1. That whenever the works of any gas or water company have been heretofore purchased by any city for the use of said city, and where the said city has been made heretofore liable, by contract or otherwise, for the bonds issued by the company, then it shall be the duty of the mayor and treasurer of said city, upon demand being made, to stamp or write upon the face of such bonds the following certificate: "the principal and interest of this bond are guaranteed by the city of ———," the blank to be filled with the corporate name of the said city, and the said mayor and treasurer shall sign the same in their official capacity and affix thereto the city seal.

Form of certificate of guaranty by city of gas and water bonds.

An act to authorize the issue of bonds for completing and extending water works in cities.

Approved April 21, 1876. P. L. 1876, p. 274.

1114. SEC. 1. That in any city in said state which, by any last census made in this state under state or United States authority, has or may have a population exceeding one hundred thousand, and in which there is or may be a board of water commissioners, it shall be lawful, for the purpose of completing and extending works now in progress for supplying any such city with water, for said board to issue bonds in the name and under the seal of the mayor and common council of such city, to be denominated on their face, "water bonds," in addition to any heretofore authorized by law, to an amount not exceeding two hundred and fifty thousand dollars; such bonds may be registered or coupon bonds, and shall bear a rate of interest not exceeding seven per centum, and shall be redeemable at any time not exceeding fifty years from their date, in the discretion of said board, which bonds may be sold at public or private sale for the best price they can obtain for the same; all bonds issued as aforesaid shall be signed by the members of the said board, or a majority of them, and countersigned by the mayor of such city; and all the real estate within such city shall be liable for the payment of the principal and interest that may become due on the bonds to be issued by virtue of this act.

Cities having over 100,000 inhabitants may issue additional "water bonds."

An act concerning cities.

P. L. 1876, p. 275.

Approved April 21, 1876.

1115. SEC. 1. [Amended by Sec. 1119, *post.*]

Arrears of taxes collected pledged to payment of tax arrearage bonds.

1116. SEC. 2. That all moneys received as principal and interest on account of said taxes in arrears, for the arrearage of which bonds shall be issued by virtue of the provisions of this act, are hereby pledged and appropriated to the commissioners of the sinking fund of said cities, where such commissioners exist, for the payment of the principal and interest of the bonds hereby authorized to be issued.

Surplus, how invested.

1117. SEC. 3. That it shall be the duty of the said commissioners of the sinking fund, or such board or department of any such city, to pay the interest on the above-mentioned bonds as the same may fall due, and all surplus money that may come into their hands above the amount needed to pay the interest as aforesaid shall be safely invested by them, and applied to the payment of the said bonds as they shall fall due.

Act not to apply to certain cities.

1118. SEC. 4. That this act shall not apply to any city which has a limitation in its charter or supplements of the total amount of aggregate bonded indebtedness of such city so as to permit an increase of such aggregate bonded indebtedness of such city.

Supplement.

P. L. 1877, p. 196.

Approved March 9, 1877.

1119. SEC. 1. That section one of an act entitled "An act concerning cities," approved April twenty-first, one thousand eight hundred and seventy-six, which reads as follows [see P. L. 1876, p. 275], be amended to read as follows:

Cities may borrow money to provide for present unfunded or floating indebtedness, &c., and issue bonds therefor.

[That hereafter it shall be lawful for any city within this state, by and through its common council, or its board of finance or finance department, from time to time to borrow money for the use of said city, in such sums as they may think best, to provide for present unfunded or floating indebtedness, or in anticipation of the collection of taxes or of assessments for benefits for street or sewer improvements in arrears in such city, not to exceed at any time the amount thereof in arrear, either by temporary loans or by the issue of bonds not to exceed ten years to run, and to issue proper evidences of indebtedness or bonds therefor, to be signed by the mayor, sealed with the city seal and attested by the city clerk, and the said evidences of indebtedness and the said bonds shall be in such form as said common council, board of finance or finance department shall fix and determine, and the bonds may be either registered or coupon bonds, or both, as may be determined by such board or department, such bonds to bear interest at not exceeding seven per centum per annum, payable as such board or department may direct; *provided, nevertheless*, that said bonds shall not be sold for less than ninety-five per centum of their par value.]

Proviso.

Payment of principal and interest of bonds, how provided for.

1120. SEC. 2. That all moneys received as principal and interest on account of said taxes and assessments in arrears, for the arrearage of which bonds shall be issued by virtue of the provisions of this act, are hereby pledged and appropriated to the commissioners of the sinking fund of said cities, where such commissioners exist, for the payment of the principal and interest of the bonds hereby authorized to be issued.

Proceedings for release of portion of lands from bond given by owner for assessments.

1121. SEC. 3. That whenever any owner of lands in any city within this state has or shall give a bond to such city for the payment of any assessment levied against his or her lands, and shall desire to have a portion of said lands released from such bond and the assessment for which it is given, and shall proceed and obtain an apportionment of such assessment under the provisions of the act entitled "An act to authorize the apportionment of taxes, assessments and water rents," approved April twenty-first, one thousand eight hundred and seventy-six, so as to determine the amount of said assessment upon the land to be released, then it shall be lawful for such city to receive the amount so apportioned on account of said bond and release such proportion of such lands from such bond and the assessment for which it is given.

1122. SEC. 4. That nothing in this act shall be construed to permit the increase of indebtedness in any city whose debt is now limited by law, and in any city wherein there is a board of finance or finance department, the powers in this act conferred shall be exercised by such board or department and not by the council, and that this act shall take effect immediately. Act not applicable to certain cities.

Supplement.

Approved April 5, 1878. P. L. 1878, p. 401.

1123. SEC. 1. That it shall be lawful for any city within this state, by and through its common council or other legislative body, or its board of finance or finance department, from time to time, to borrow money for the use of such city to such aggregate amount as shall be sufficient to pay and fund such of the unfunded or floating indebtedness of such city, at the time of the approval of this act, as has arisen from losses occurring upon the previous refunding of bonds of such city, or from improvements paid for by such city, and for which assessments cannot legally be made, or from deficiencies upon re-assessments made for improvements paid for by such city, and also the amount to fall due on all bonds of such city becoming due and payable within two years next succeeding the time of approval of this act, which aggregate amount shall be ascertained by such finance department, in all cases where the same exists, and the disbursing officers of such city, where such does not exist, and to issue the bonds of such city therefor, in the form and by the authority now prescribed in any such city by any general or special law of this state, which bonds may be either registered or coupon bonds, or both, as may be determined by such finance department, in all cities where such exists, and by the legislative body thereof, in all cities where such finance department does not exist, such bonds to bear interest at a rate not exceeding seven per centum per annum, payable in not less than ten nor more than thirty years from date, as such finance department, where it exists, and such legislative body, where it does not exist, shall determine, which bonds shall be denominated "funded debt bonds;" *provided, nevertheless*, that such bonds shall not be sold for a less per centum of their par value than shall be determined by such board of finance, where the same exists, or such legislative body, where such finance department does not exist. May borrow money to fund certain floating indebtedness, &c., and issue bonds therefor. Rate of interest. Proviso.

1124. SEC. 2. That nothing in this act shall be construed as permitting the issue of bonds in any city of this state, the charter or supplements of which now limits the amount of the debt of such city. Act, how construed.

An act authorizing the issue of tax arrearage bonds in cities.

Approved April 21, 1876. P. L. 1876, p. 276.

WHEREAS, A considerable proportion of the taxes levied annually upon the real estate in the several cities of this state remains unpaid at the close of each year; *and whereas*, it is the practice of the governing bodies of said cities, under the provisions of the several charters thereof, to cause to be sold annually at public auction the various lots or parcels of real estate on which the taxes remain unpaid as aforesaid; *and whereas*, the said municipalities in the absence of purchasers are compelled to buy in annually the greater portion of the lots or parcels of real estate sold by the comptroller or other officer of said cities as aforesaid, in order to secure the payment of the taxes so remaining unpaid; *and whereas*, it is found by experience that a period of several years elapses before the said taxes are finally paid by the owners in the redemption of the property so sold; *and whereas*, up to the present time no provisions of law have been made for the means to carry or float the amount of the said unpaid taxes until they are ultimately refunded to the said cities by the owners of the property so sold annually as aforesaid, except by the issue of temporary loan bonds; therefore, Preamble.

1125. SEC. 1. That it shall be lawful for the department of finance, under the control and with the consent of the governing body of any city in this state, or if there is no such department of finance, then the board of alder- Cities may issue bonds for amount of tax liens purchased by them.

men or board of councilmen, to issue bonds of the said city under the signature of the mayor and city clerk, with the corporate seal affixed, and countersigned by the comptroller or other financial officer, for an amount not exceeding the amount of tax liens heretofore purchased by said municipalities, or which may hereafter be purchased by them at the sale of unpaid taxes, in such sums as they may deem best, payable at such time or times as they may designate, not longer than ten years, bearing interest at seven per centum per annum, payable semi-annually.

Principal and interest of arrearage bonds, how provided for.

1126. SEC. 2. That all moneys received as principal and interest on account of the redemption of real estate sold for taxes of one thousand eight hundred and seventy-five, and for each and every other year for the arrearage of which bonds shall be issued by virtue of the provisions of this act, are hereby pledged and appropriated for the payment of the principal and interest of the bonds hereby authorized to be issued; in cities where there are commissioners of the sinking fund, then they shall be pledged and appropriated to said commissioners for said purpose.

Surplus, how invested.

1127. SEC. 3. That it shall be the duty of the said commissioners of the sinking fund of any such city, or other board performing their duties, to pay the interest on the above-mentioned bonds as the same may fall due, and all surplus money that may come into their hands above the amount needed to pay the interest as aforesaid shall be safely invested by them and applied to the payment of the said bonds as they shall fall due; the board of aldermen or board of councilmen of any city where no commissioners of the sinking fund are in existence, may perform the duties of such commissioners or designate by ordinance a board to perform such duties, and may appoint by resolution the members of such board.

1128. SEC. 4. [Amended by Sec. 1129, *post.*]

Supplement.

P. L. 1883, p. 239.

Approved March 23, 1883.

1129. SEC. 1. That section four of an act entitled "An act authorizing the issue of tax arrearage bonds in cities," approved April twenty-first, one thousand eight hundred and seventy-six, shall be amended so as to read as follows:

Provisions of act not to extend to certain cities, &c.

[That the provisions of this act shall not extend to cities that already under their charters or the supplements thereto have power to issue bonds for the purposes mentioned in this act, and for the length of the time herein provided, nor shall anything herein contained be construed to permit an increase of the indebtedness of any city whose debt is now limited by law; but in all cases where said bonds shall have been heretofore or shall be hereafter issued by any municipality to take the place of a like amount of outstanding temporary obligations of said city, issued in conformity with law in anticipation of the collection of unpaid taxes, said bonds so issued for the purposes aforesaid shall be and they are hereby declared to be valid and binding obligations of said city, but the proceeds of the sale thereof shall be applied to the payment of said outstanding temporary obligations, and for no other purpose whatever.]

An act concerning the payment of judgments against any city.

P. L. 1877, p. 70.

Approved March 8, 1877.

Cities may issue bonds to pay judgments.

1130. SEC. 1. That hereafter it shall be lawful for any city within this state, by and through its board of finance or finance department, from time to time, to borrow money for the use of said city, in such sums as may be necessary to pay any judgment now recovered or that may hereafter be recovered against such city, either by temporary loans or by the issue of bonds, not to exceed twenty years to run, and to issue proper evidences of indebtedness or bonds therefor, to be signed by the mayor, sealed with the city seal and attested by the city clerk; and the said evidences of indebtedness and the said bonds shall be in such form as said board of finance or finance department shall fix and determine, and the bonds may be either

Bonds, how executed.

registered or coupon bonds, or both, as may be determined by such board or department, such indebtedness and bonds to bear interest at not exceeding seven per centum per annum, payable as such board or department may direct; said bonds not to be sold or used at less than their par value. (a)

Provision for payment of bonds.

1131. SEC. 2. That there shall be put in the tax levy of each year a sum sufficient to pay the interest of certificates of bonds issued under the first section, and also such percentage of the principal of said bonds as shall be fixed by the board of finance or finance department, from time to time, and all percentage of the said principal sum thus raised by taxation is hereby pledged and appropriated to the commissioners of the sinking fund in the city where such commissions exist, for the payment of the principal of said certificates or bonds.

An act in reference to the mode of payment of interest on the indebtedness of cities.

Approved March 9, 1877. P. L. 1877, p. 296.

Manner of payment of interest on city debt to be prescribed by resolution.

1132. SEC. 1. That it shall be lawful hereafter for the board of finance and taxation, or other board or department having charge of the finances of any city, to prescribe by resolution the mode and manner of payment of all interest that may fall due on any city indebtedness, whether the same be interest on bonds registered or coupon, or upon any other class or character of indebtedness.

An act concerning public improvements in certain cities of this state.

Approved April 5, 1878. P. L. 1878, p. 416.

Improvement bonds may be issued in cities of between 100,000 and 120,000 inhabitants.

1133. SEC. 1. That from and after the passage of this act, the proper authorities of any city having more than one hundred thousand and less than one hundred and twenty thousand inhabitants, according to the last state census, having charge of street improvements, be and the same are vested with power to issue twenty-year improvement bonds upon the following conditions:

Conditions upon which bonds may issue.

1134. SEC. 2. That a majority of the resident property-owners on any line of street, avenue or other highway within the corporate limits of such city, within the provisions of the first section of this act, applying by petition or otherwise for improvements, describing and setting forth the nature and extent of same, the corporate authorities, through the proper board, municipal officer or officers, or commissioners, shall have the same surveyed and assessed in the regular manner, and shall proceed at once to have the required improvement made and completed without unnecessary delay; *provided*, no such improvements shall be made over lands of the state, or which have been sold by the state or riparian commission, lying under water.

Proviso.

Improvement applied for shall be advertised.

1135. SEC. 3. That the said improvement so applied for and ordered shall be advertised in the proper official newspapers for a period of thirty days, and in all respects shall conform to the regular manner of letting such work in such city.

Sale of bonds for improvements.

1136. SEC. 4. That the proper authorities of such city shall pay for such improvements by the issue and sale of city bonds, which said bonds shall mature at a date of not less than twenty years from the date of their issuance, and which shall bear interest at the rate of six per centum per annum.

Final payment or redemption of bonds, how provided for.

1137. SEC. 5. That to provide for the final payment or redemption of said bonds, the sum shall be secured to said corporation of such city by the assessments levied on the various lots, pieces or parcels of land benefited by the improvement, which said assessment shall be a first lien upon each and every of the property or properties so benefited, and shall bear interest at and after the rate of six per centum per annum on the princi-

(a) See *Trustees, &c.*, v. *Jersey City*, 24 *Vr.* 62.

pal, which principal shall be paid in installments of five per centum per annum, with the accrued interest on the balance of assessment charged against the lots or parcel of land receiving the benefit of this act, until the whole shall be liquidated.

Proceedings in case of default of payment of assessments for improvement.

1138. SEC. 6. That in default of the payment of said five per centum of principal and six per centum interest, as described in section five of this act, or any part thereof, upon the day and date prescribed for the payment of the same, then it shall be lawful for the proper authorities to take steps to collect the whole of said assessment and interest through the regular channel of collecting assessments in said city.

An act to allow cities in the state of New Jersey to issue registered bonds in lieu of coupon bonds heretofore issued, or which are authorized by law to be hereafter issued.

P. L. 1879, p. 201.

Approved March 14, 1879.

Registered bonds may be issued in exchange for coupon bonds heretofore given.

1139. SEC. 1. That in any city of this state where coupon bonds have been heretofore issued according to law, or in which coupon bonds have been authorized by law to be issued, but have not as yet been issued, the proper financial authorities may hereafter issue either coupon or registered bonds; where bonds have been authorized to be issued, but have not been so issued, and where coupon bonds have already been issued according to law, such financial authorities may, upon the application of any legal holder or holders of such coupon bonds, and at their expense, issue registered bonds in exchange for such coupon bonds, to run for the period such coupon bonds have yet to run at the time of making such exchange, and at a legal rate of interest, and the coupon bonds so received in exchange for such registered bonds shall be canceled.

Registered bonds to be registered.

1140. SEC. 2. That the authorities issuing such registered bonds shall provide for the registering thereof in proper books to be kept for that purpose, and for the transfer of said bonds upon said books, and shall have power to determine in what amounts such bonds shall be issued.

An act concerning cities.

P. L. 1880, p. 258.

Passed March 12, 1880.

Certain cities of not less than 25,000 inhabitants may issue bonds to pay floating debt.

1141. SEC. 1. That it shall be lawful for any city within this state having a population of not less than twenty-five thousand inhabitants, and having a floating or unbonded debt which the available funds of such city are insufficient to pay, by and through its common council or other body having control of its finances, to borrow money to the amount of such floating or unbonded indebtedness, and to issue bonds therefor, said bonds to be issued in any manner provided by the charter of said city for the issuing of other bonds, to be made payable in twenty years or less from their date, to bear not more than six per centum interest, and to be sold at not less than par; *provided*, that this act shall not authorize any such city to increase its funded debt of every kind and description above the amount of one million one hundred thousand dollars. (*a*)

Proviso.

Further floating debt not to be incurred.

1142. SEC. 2. That from and after the passage of this act it shall not be lawful to incur any further temporary or floating indebtedness, unless the payment of the same shall have been already provided for by taxation.

An act to authorize cities to exchange registered for coupon or registered bonds.

P. L. 1881, p. 14.

Approved February 5, 1881.

Preamble.

WHEREAS, Several of the cities of this state have heretofore issued registered bonds, which, by reason of the settlement of estates or other legal cause, renders it necessary to divide or parcel the original amount of such bonds, and, because of the present law, such division by exchange or sur-

(*a*) The supreme court has held this act to be unconstitutional, as being a special law regulating the internal affairs of cities. *Anderson* v. *City of Trenton*, 13 *Vr.* 486.

render of the original bonds is stopped, thereby causing much inconvenience and loss; therefore,

Authorities may exchange registered bonds for coupon or registered bonds heretofore or hereafter to be issued.

1143. SEC. 1. That the financial authorities of any city of this state where coupon or registered bonds have been heretofore issued or may be hereafter issued, may, upon application, issue registered bonds in exchange for either coupon or registered bonds, in such amounts as said authorities may in their discretion determine, and which bonds so exchanged shall be made payable at the same time and bear the same rate of interest as the bonds surrendered for exchange, and which surrendered bonds shall be canceled; *provided*, that no authority for any increase of indebtedness shall be inferred from this act; *and provided further*, that any bond re-issued or issued in substitution, under this act, shall be subject to any defense, legal or equitable, which was or would have been available against the bond or bonds originally issued.

Proviso.

Proviso.

Bonds issued to be registered in proper books.

1144. SEC. 2. That the authorities issuing such registered bonds shall provide for the registration thereof in proper books to be kept for that purpose, and for the transfer of said bonds upon said books.

An act to provide for the payment of the difference between old and new assessments for improvements in cities.

Approved March 3, 1881. P. L. 1881, p. 66.

Cities authorized to borrow money and issue bonds to pay difference between any assessment and reassessment for improvements.

1145. SEC. 1. That it shall be lawful for any city in this state, from time to time, to borrow money for the use of said city, in such sums as it may think best, to pay the difference between any assessment on any real estate for any improvement in said city and any re-assessment thereon for the same improvement when the original assessment has been vacated or set aside by a court or any city board, together with any interest or damages due or to fall due thereon; that the city, in order to procure said money, may issue bonds, payable as to principal and interest at such times and at such place and in such form as it shall deem best, and the same shall bear interest not exceeding six per centum per annum, and may be sold at not less than par; the bonds shall be signed by the mayor, sealed with the city seal and attested by the city clerk, and may be registered or coupon bonds, or both, and may be convertible from one form to the other, from time to time, and in converting coupon bonds to registered bonds, one registered bond may be issued for several coupon bonds or several coupon bonds may be issued for one registered bond, as may be determined from time to time; *provided*, the issue of bonds under this act does not exceed in any city of this state the limit now provided by law.

Proviso.

Power of board having control of finances.

1146. SEC. 2. That the board having the control of the finances of the city shall have full power to act for the city under section one of this act, and to do all things therein authorized to be done, except the signing, sealing and attesting of the bonds therein mentioned, and shall from time to time place or cause to be placed in the tax levy an amount sufficient to pay the interest on said bonds and such percentage of the principal thereof as it may deem proper.

An act to authorize cities in this state to issue and dispose of water bonds or water scrip to renew certain water bonds or water scrip.

Approved January 30, 1883. P. L. 1883, p. 12.

Cities may renew water bonds or scrip.

1147. SEC. 1. That where water bonds or water scrip have heretofore been legally issued by any city board or board of water commissioners, and any city in this state is now liable for the payment thereof, or for the payment of money borrowed to pay said bonds, that the municipal board of any such city having the management and control of the finances of said city may, without the action of any other board, renew such indebtedness, or any part thereof, by the issuing for that purpose of bonds or water scrip, to be known as water bonds or water scrip; such bonds or water scrip to be issued in the corporate name of such city, signed by the mayor

and city clerk of such city, and signed, attested and countersigned by such other city officials (if any) as the board having the control and management of the finances of such city may direct; and it is hereby made mandatory upon any city official named in such resolution, without the action of any other city board, to forthwith sign and countersign the same as therein directed, which water bonds or water scrip shall be made payable in not less than twenty and not more than forty years, and draw such interest, not exceeding five per centum per annum, and be issued in such sums, not less than one hundred dollars each and in such form as said city board shall by resolution determine; and such water bonds or water scrip may be coupon or registered, or both, and convertible from one form to the other, from time to time, in the discretion of said city board; when the said water bonds or water scrip are coupon bonds or coupon water scrip, they shall have semi-annual coupons for interest attached in such form and attested in such manner as said city board shall determine.

Bonds, when due.

Rate of interest.

1148. SEC. 2. [Amended by Sec. 1151, *post.*]

Authorized to create sinking fund.

1149. SEC. 3. That the said city board shall have power to provide for the creation of a sinking fund to pay off the principal of said water bonds or water scrip, issued under this act, as the same shall fall due, and shall have power to direct that an amount to be named shall be raised each year by taxation for that purpose.

Repealer.

1150. SEC. 4. That all acts and parts of acts, public, general, special, local or private, inconsistent herewith, be and the same are hereby repealed, and this act shall be deemed and taken to be a general public act and take effect immediately.

P. L. 1884, p. 97.

Supplement.

Approved March 25, 1884.

1151. SEC. 1. That section two of the act to which this is a supplement be amended to read as follows:

Price at which bonds or scrip may be sold.

[That such water bonds or water scrip shall be sold by said city board at public or private sale for the best price that can be obtained therefor, but at not less than ninety-seven per centum of their par value; the said city board shall use the proceeds of such sale to pay off said water bonds or water scrip now due, and to pay any money heretofore borrowed, or that may be hereafter borrowed, to pay off such water bonds or water scrip, or any part of such indebtedness when due; nothing in this act contained shall be so construed as to authorize any increase of the indebtedness of said city.]

An act authorizing city boards having the control of the supply and distribution of water to issue bonds for the payment of indebtedness and for the construction, extension and maintenance of water works.

P. L. 1884, p. 59.

Approved March 6, 1884.

Cities may issue additional water bonds to pay floating indebtedness, &c.

1152. SEC. 1. That it shall be lawful for any board in any city of this state having the control of the supply and distribution of water, in addition to the bonds already issued, to issue water bonds in the name and under the seal of the mayor and common council of any such city aforesaid in any sum not to exceed two hundred and twenty-five thousand dollars, and to bear interest at a rate not exceeding five per centum per annum, payable semi-annually, and to make said bonds redeemable at the expiration of thirty years from the date of issue thereof, which bonds such board aforesaid may negotiate and sell for the best price that can be obtained therefor, not less than the par value thereof; and it shall be the duty and such board is hereby required to apply the proceeds of the sale of such bonds to the payment of the temporary loans and floating indebtedness due or which may hereafter be contracted by such board; and such bonds shall be issued in the same manner and under the same rules and regulations, and the same liability for the payment of the same on the part of such city, as is prescribed by law respecting water bonds heretofore issued by or on behalf of such board.

1153. SEC. 2. That for the purpose of the extension of street water mains by any such board of any city of this state, it shall be lawful for any such board to issue bonds in the name and under the seal of the city aforesaid, in addition to the bonds in the first section of this act authorized to be issued, to an amount not exceeding twenty thousand dollars per annum; such bonds shall bear a rate of interest not exceeding five per centum per annum, and shall be redeemable at the expiration of thirty years from the date of the issue thereof, which bonds such board may sell for the best price such board can obtain for the same, but not less than the par value thereof; and such bonds shall be issued in the same manner and under the same rules and regulations, and with the same liability for the payment thereof on the part of any such city, as is prescribed by law respecting water bonds heretofore issued by such board; *provided*, that the annual issue of twenty thousand dollars of bonds by such board, hereby authorized, shall wholly cease whenever the net revenue received by such board from water rents shall amount to the sum of twenty thousand dollars annually in excess of the annual running expenses of such board and the interest necessary to be paid on the bonds heretofore and hereafter issued by or on behalf of any such board, and in any event shall cease in the year one thousand eight hundred and ninety-two; *and provided further*, that whenever the net revenue received from water rents by such board shall exceed the amount of the running expenses thereof during any year, together with the interest paid during such year by such board, on the bonds issued by or on behalf of such board, then during the succeeding year thereafter such board shall issue only so much of such annual sum of bonds, by this section authorized to be issued, as shall be necessary, together with such excess in receipts from water rents over the running expenses and interest aforesaid, to make up the sum of twenty thousand dollars for the purpose aforesaid.

May issue additional water bonds for extension of street mains.

Proviso.

Proviso.

1154. SEC. 3. That in order to create a fund for the payment at their maturity of the bonds by the provisions of the foregoing sections of this act authorized to be issued by said boards as aforesaid, it shall be the duty of such board, at the beginning of each municipal year, to make a careful and accurate estimate of the amount of money which will be necessary to raise the sum of three per centum of the amount of the bonds issued under the provisions of this act, and to report the same to the city board having the control of the finances of such city at or before the first regular meeting of such board in the month of March in each year; and such board aforesaid shall thereupon assess and levy the said sum by the tax ordinance or resolution of that year, and all proceedings in relation to the collection of the same, and the arrears thereof, shall be the same as those in relation to the other taxes of such city aforesaid; the city treasurer of such city shall keep his account of the moneys so received separately from his other accounts, and shall pay over the moneys so by him received to the sinking fund commissioners of such city on or before the first day of October in each and every year; and in case the amount so assessed and raised in any year shall be more than sufficient or less than sufficient than the said sum of three per centum of the amount of bonds issued by such board under the provisions of this act, then such excess or deficiency, as the case may be, shall be reported by such board to the board having the control of the finances of such city in any annual statement provided to be made by such board in the year then next ensuing, and the amount to be then assessed and levied by such board as aforesaid shall be increased or diminished accordingly, and such board of sinking fund commissioners is hereby authorized and required to invest any such sums so received from the treasurer of such city as aforesaid, from time to time, as such board of sinking fund commissioners shall think proper, as a sinking fund for the redemption of the bonds issued under and by virtue of the provisions of this act; and such board of sinking fund commissioners respectively shall have the power to make such rules and regulations respecting the care and management of the said fund as such board of sinking fund commissioners respectively shall deem proper and expedient, but in no other way shall

Fund for redemption of bonds, how created, &c.

any part of such fund at any time be used in any manner inconsistent with the provisions of this act; and the said board of sinking fund commissioners respectively shall keep accurate accounts of the said fund, in distinct and separate books of account, and shall annually make a full and detailed report of the condition and state of such fund to the city board of their respective cities having the control of the finances thereof.

Restriction of act.

1155. SEC. 4. That no city board shall exercise any power under this act while the bonded indebtedness of such city exceeds fifteen per centum of its ratables liable to municipal taxation in such city.

Limit of taxation for water account.

1156. SEC. 5. That no such city board shall require the board having the control of the finances of any city to raise by direct tax any sum for interest or deficiency on water account exceeding eighty thousand dollars per annum.

Repealer.

1157. SEC. 6. That all acts and parts of acts, public, general, special, local or private, inconsistent herewith, be and the same are hereby repealed, and this act shall be deemed, taken and construed to be a general public act, and shall take effect immediately.

An act relating to the issue of temporary loan bonds in cities of this state.

Approved April 21, 1884.

P. L. 1884, p. 238.

Temporary bonds or obligations may be issued and renewed in anticipation of taxes.

1158. SEC. 1. That it shall be lawful for the common council, board of finance, or other governing body of any city in this state, to issue, from time to time, its temporary bonds or obligations in anticipation of taxes, and to renew such bonds heretofore issued, to the amount of the taxes, remaining unpaid at the date of any such issue; and said bonds shall run for a period not extending, with renewals, beyond the time limited by the charter of such city for the sale of lands for unpaid taxes.

Repealer.

1159. SEC. 2. That all acts and parts of acts, general or special, inconsistent with this act, are hereby repealed, and this act shall take effect immediately.

An act concerning cities in this state.

Approved April 21, 1884.

P. L. 1884, p. 239.

Deficiency for payment of annual interest on bonded indebtedness may be raised by tax.

1160. SEC. 1. That where in any city or cities of this state the provision heretofore made by law for the payment of the annual interest heretofore accrued or hereafter to accrue on the bonded indebtedness or any part thereof, of such city or cities, shall have been found or shall hereafter be found to be insufficient for such purpose, the board having the control of the finances of such city or cities shall have power to raise by taxation the amount of such deficiency by adding the same to the annual tax levy of such city or cities.

An act to authorize cities in this state to issue bonds for certain purposes.

Approved April 20, 1885.

P. L. 1885, p. 290.

Cities may issue bonds for—

Certain present outstanding indebtedness.

1161. SEC. 1. That it shall and may be lawful for the cities of this state to issue their corporate bonds for the following purposes:

I. To pay any present outstanding indebtedness heretofore incurred for the purpose of paying any judgment obtained against such city for bonds of other places which said city has become liable for by annexation of territory, where there does not now exist any other provision of law for the payment of such bonds by said city; said bonds to be made payable not more than twenty years from the date of their issue;

Deficiencies in street improvements, &c.

II. To provide for existing deficiencies which have heretofore arisen by reason of the failure of the city to collect from assessments made in such city for street improvements and sewers enough money to pay the interest on the bonds of the city issued for the payment thereof, this authority only to be exercised by said city where such assessments have been pledged or set apart as a fund for the payment and redemption of bonds heretofore issued to raise money to pay for said improvements; and these bonds shall

be temporary bonds, and made payable not more than ten years from the date of their issue.

1162. SEC. 2. That such bonds shall be issued by the authority of the mayor and common council or the board having charge of the finances of such city, under its corporate seal, from time to time, and the proceeds thereof, when received, shall be used for the purposes aforesaid; such bonds shall be of the denomination and be made payable at such time and place as the mayor and common council or other legislative body of such city shall determine, and shall bear interest at a rate not greater than six per centum per annum, and may be disposed of at any sum not less than par. Bonds, by what authority issued, &c.

1163. SEC. 3. That any fund or funds now pledged or set apart for the payment or redemption of the bonds or indebtedness, in lieu of which or in payment of which any of the bonds hereby authorized are issued, shall be and remain pledged and set apart as well for the payment and redemption of the bonds hereby authorized and issued in lieu thereof or in payment thereof and the interest to accrue thereon. Funds pledged for payment of bonds.

1164. SEC. 4. That if at any time hereafter a sufficient sum shall not be received by such city from the fund or funds so pledged or set apart for the payment and redemption of the bonds heretofore issued to meet and pay the annual interest which will accrue thereon, then it shall be the duty of the mayor and common council or other legislative body of such city to provide therefor and supply the deficiency by placing the amount thereof in the annual tax levy; and no city availing itself of the provisions of this act shall hereafter have power to borrow money to meet deficiencies in interest or bond account unless they shall have first placed money in the tax levy sufficient to pay such deficiency; and the money placed in said tax levy for such purpose shall not be used for any other purpose whatever. When sufficient sum not received from funds pledged, deficiency to be raised by tax.

1165. SEC. 5. That for all bonds issued under the authority of this act a sinking fund shall be created by placing in the tax levy of such city, in addition to the annual interest on the bonds so issued, a sum not less than six per centum to pay the ten-year temporary bonds, and not less than three per centum to pay the twenty-year bonds, such per centum to be of the amount of said bonds issued under this act, annually, which amount, when collected, shall be paid to the commissioners of the sinking fund of such city, to be by them invested and appropriated to the payment of the principal of such bonds. Sinking fund to be created.

1166. SEC. 6. 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 authorize the cities of this state to issue bonds for certain purposes.

Approved February 20, 1886. P. L. 1886, p. 32.

1167. SEC. 1. That in case any of the cities of this state are or may be liable for the payment of any indebtedness imposed thereon by reason of the annexation of territory, and no provision now exists by which such indebtedness may be funded and paid, such city may issue its corporate bonds to an amount equal to such indebtedness, of such denomination bearing interest at a rate not exceeding six per centum per annum, for such time not exceeding twenty years, and payable at such place as the common council or other governing body of such city shall determine, and may negotiate and sell the same at any rate not less than par, the proceeds of which shall be used to take up, pay off and discharge such indebtedness, and for no other purpose whatever. Cities authorized to issue bonds for debt imposed by annexation of territory.

1168. SEC. 2. That it shall be the duty of the common council or other governing body of such city to provide annually, in the tax ordinance of such city, for raising by taxation therein a sufficient sum to pay the interest falling due on such bonds as it accrues, and to provide a sinking fund, of not less than three per centum, for the payment and redemption thereof when due, and that the amount annually raised for such sinking fund be paid over to the commissioners of the sinking fund of such city where such commissioners exist for this purpose. Provision for payment of same.

An act to provide for the payment of bonds issued in anticipation of taxes levied in the cities of this state.

P. L. 1886, p. 55.

Approved March 1, 1886.

Bonds issued before payment of taxes pledged for their payment, may be renewed, when.

1169. SEC. 1. That where, in the cities of this state, bonds have been issued in anticipation of taxes levied and assessed therein, and the same or any part thereof have fallen or may fall due before the payment and collection of the taxes pledged for their payment, and no other fund has been provided therefor, it shall and may be lawful to re-issue so much and such parts of such bonds as remain unpaid after the application thereto of the taxes paid and collected at the time they fall due, and in case of a re-issue of any bonds under the authority of this act, provision shall be made for raising in the tax ordinance annually a sum sufficient to pay the interest thereon as it accrues, and a sinking fund for their payment when due; and the amount so raised for a sinking fund shall be equal each year.

Provision to be made to pay interest, &c.

Payment thereof, how provided for.

1170. SEC. 2. That all moneys paid and collected from taxes so anticipated, which would otherwise have been used for the redemption of the bonds so re-issued, shall be used for the redemption of the series of such bonds next falling due.

An act to enable cities in this state to refund bonds falling due in one thousand eight hundred and eighty-six, for which no sinking fund has been provided, and to provide a sinking fund therefor.

P. L. 1886, p. 147.

Passed March 30, 1886.

Cities authorized to refund certain bonds falling due during the year 1886.

1171. SEC. 1. That it shall and may be lawful for the common council or other governing body having charge of the finances of any of the cities of this state to issue the corporate bonds of such city to an amount sufficient to take up and redeem any bonds of such city falling due during the year one thousand eight hundred and eighty-six, for the redemption of which no sinking fund has been provided, and the proceeds of the bonds hereby authorized shall be used to take up and pay off such bonds so falling due, and for no other purpose whatever, but said bonds shall not be sold at less than par.

Conditions of such bonds.

1172. SEC. 2. That the bonds hereby authorized shall be of such denomination, and bear such rate of interest, not exceeding five per centum per annum, and be made payable at such place and at such time, not exceeding thirty years from the date of their issue, as the common council or other governing body may determine.

Provision for payment thereof.

1173. SEC. 3. That in every case where such bonds are issued in any city, it shall be the duty of the common council or other governing body having charge of the finances of such city, annually thereafter, to provide in the tax ordinance of such city for the raising by taxation therein of a sufficient amount to meet and pay the interest thereon as it accrues, and a sufficient sinking fund for their payment and redemption when due, which sum so raised shall be devoted exclusively to such purpose and be paid over to the commissioners of the sinking fund of such city therefor, where such com missioners exist in any such city.

An act authorizing cities to issue bonds for the purpose of acquiring immediate title to property in certain cases.

P. L. 1887, p. 143.

Approved April 8, 1887.

Bonds may be issued to pay for water pipes, &c.

1174. SEC. 1. That in case in any city in this state where water pipes have been laid and other work connected therewith has heretofore been done and materials furnished for the city in accordance with the terms of a written contract legally entered into and not in dispute and the same have not been fully paid, it shall be lawful for the board having supervision and control of the finances of such city, whether other or different provision or contracts for the payment thereof have or have not been made, to issue registered or coupon bonds in the corporate name of such

city in the form now prescribed in such city, to bear interest at a rate not to exceed four and one-half per centum per annum, and deliver the same at not less than their par value to such person or persons to whom payment may be due or become due for such work and materials, or for an adjusted amount, or on an account stated between the city and such person or persons, and in full satisfaction of the same; said bonds to be issued in such installments and for the respective term of years as said board may by resolution determine; *provided*, that the principal sum of said bonds shall not exceed in amount the whole amount of money due and to become due to the said person or persons by the terms of such contract; *and provided, further*, that no bond be issued or delivered unless authorized by a resolution adopted by said board, to be approved of by the mayor of said city; *and provided, further*, that in case the moneys for which said bonds may be issued in satisfaction are by the terms of said contract due and payable without interest in installments have not been ascertained, then said bonds shall only be issued for an amount equal to the present value of said amount due in installments, based upon a computation to be made by said board having supervision and control of the finances of such city, at the rate of six per centum per annum and having regard to the probable amount of said installments from year to year.

Proviso.

Proviso.

Proviso.

1175. SEC. 2. That any moneys due or to become due for the use made of such work and materials, or for any merchandise, article or supply connected therewith, or furnished through or therefrom, shall be applied to the payment of such bonds and for no other purpose until the same are wholly paid.

What money to be applied to payment of bonds.

1176. SEC. 3. That the proper authorities of such city, in case of the failure to collect sufficient money in the manner referred to in the last preceding section of this act to pay and satisfy any such bond or bonds at their maturity, shall have power to provide by taxation for the payment of said bonds and interest thereon and may order and cause to be assessed and collected by tax at the same time and in the same manner that other taxes in such city are assessed and collected, a sum of money sufficient to pay or discharge the principal of said bonds and interest thereon at the several times it shall become due.

Additional moneys for such payment to be raised by tax.

An act authorizing cities to renew maturing bonds.

Approved June 9, 1890. P. L. 1890, p. 421.

1177. SEC. 1. That whenever any bonds heretofore legally issued by any incorporated city in this state under authority of law, shall at any time or times hereafter prior to the first day of January, one thousand eight hundred and ninety-four, become due, the board of aldermen, common council or other board having charge and control of the finances of such city, with the approval of the mayor of such city, may renew said indebtedness or any part thereof by the issuing of the bonds of said city for that purpose; *provided, however*, that no such bonds shall be renewed in cases where there are moneys or securities in any sinking fund of such city specifically appropriated for the redemption of said maturing bonds until after the moneys and securities of said sinking fund so specifically appropriated shall have been exhausted in the payment of maturing bonds.

Bonds maturing before January 1st, 1894, may be renewed.

Proviso.

1178. SEC. 2. That the bonds to be issued under the provisions of this act shall be made payable at periods not exceeding thirty years from the date of issuing the same, and shall draw such rate of interest not exceeding five per centum per annum, and be in such sums as the board having charge and control of the finances of said city shall determine, which bonds shall be executed under the corporate seal of said city, and the signature of the mayor, comptroller or other proper financial officer thereof, and may be either registered or coupon bonds, as said board may direct; *provided*, that in order to redeem the bonds issued under the provisions of this act at maturity, it shall be the duty of the board having charge and control of the finances of such city to establish a sinking fund, which shall be created either by a special tax of not less than two per centum on the

Terms and conditions of such bonds.

Proviso.

issues herein provided for, to be raised in each annual tax levy, or from collections of assessments for improvements in cases where the bonds hereby authorized to be re-issued were originally issued to pay for street and sewer improvements in such city, or from the collection of water rents in cases where the bonds hereby authorized to be re-issued were originally issued for the water department of such city, or by taxation and from such collections at the option of said financial board.

Interest thereon to be raised by tax.

1179. SEC. 3. That the interest on the bonds hereby authorized to be issued from time to time shall be raised and paid by a special tax or appropriation, to be annually levied and collected as other taxes in such city are now or may hereafter be levied and collected, and the whole of each year's interest shall be so raised, levied, collected and paid within each year; *provided*, that the interest on all bonds re-issued in place of maturing water bonds shall be paid out of the collections for water rents in such city for said year.

Proviso.

1180. SEC. 4. [Amended by Sec. 1181, *post.*]

Amendatory act.

P. L. 1891, p. 197.

Approved March 19, 1891.

1181. SEC. 1. That section four of an act entitled "An act authorizing cities to renew maturing bonds," which act was approved June ninth, one thousand eight hundred and ninety, be amended so as to read as follows:

Such bonds, how sold.

[That the board or authority in any such city now having authority by law to issue the bonds of such city whenever the bonds of such city are required or authorized to be issued, may dispose of the bonds by this act authorized at public sale or at private sale in case a more favorable bid can be obtained than shall have been bid publicly therefor, but in no case for less than par, which issues and sales may be made in anticipation of the retirement of said maturing bonds, and all of the moneys received from the sale of said bonds shall be applied and used for the purposes of this act and for no other purpose; *provided*, that no increase in the bonded indebtedness of any such city shall be made under this act.]

Proviso.

An act authorizing the cities of this state to renew maturing water bonds.

P. L. 1891, p. 177.

Approved March 17, 1891.

Certain water bonds held by savings institutions may be renewed.

1182. SEC. 1. That whenever any water bonds heretofore issued by any board of water commissioners or other competent board, in the corporate name of any city of this state, under the authority of law, shall hereafter mature, and shall be held by any savings institution of this state which is now under the control of the chancellor of this state under and by virtue of an order or decree made under the authority of an act approved April fifth, one thousand eight hundred and seventy-eight, entitled "A supplement to an act entitled 'An act concerning savings banks,' approved April twenty-first, one thousand eight hundred and seventy-six," the board of water commissioners of said city, or any other board of said city, if there be no board of water commissioners, having charge of the finances of said city, may renew the whole amount of said maturing bonds, or any less part thereof, by the issuing in the corporate name of the said city, bonds to be denominated on their face (name of city) city water bonds, bearing interest at a rate not exceeding five per centum per annum, and the said interest shall be paid semi-annually; and the principal of said debt shall be payable at periods not less than ten nor more than fifty years from date; and the water commissioners, or other competent board as aforesaid, may exchange the same for said maturing bonds upon such terms as the chancellor may direct, which bonds shall be of the denomination of fifty dollars and multiples thereof, and shall be executed under the corporate seal of said city and shall be signed by a majority of the members of the board of water commissioners, or board having charge of the finances of the city, if there be no said board

By exchange for new bonds.

of water commissioners, and shall be countersigned by the mayor of said city; and a record of all bonds issued or disposed of shall be kept by said commissioners, or the board having charge of the finances of the city, if there be no board of water commissioners, and copies of such record shall be made and delivered to the treasurer or other proper financial officer of said city; said bonds shall have coupons attached for every half-year's interest until due, or may be registered, or the principal of the coupon bonds may be registered, at the option of the holder.

Registered or coupon.

1183. SEC. 2. That in case the revenue received from water supplied shall not in any year be sufficient to pay the interest and all the necessary expenses of the operation of the water works and supply, an amount equal to such deficiency shall be provided for and paid by the said city, and the proper authorities thereof are hereby authorized and required to assess and raise for that purpose, by tax, such amount as may be necessary in addition to the other taxes authorized by law.

Interest and necessary expenses, how provided for.

1184. SEC. 3. That the water commissioners of said city, or other board having charge of the water-supply, shall fix the water rents or prices for water, with reference to paying from the proceeds thereof the interest and principal of the bonds as they respectively fall due; and such portions of the money received as may remain after paying all expenses for maintaining the works and raising and distributing the water, and salaries, wages and incidental charges, shall be applied first to the payment of interest upon the bonds issued under authority of this act, and next to the purchase of said bonds if the same can be obtained at reasonable rates, or if that cannot be effected, then to be safely invested and allowed to remain as a sinking fund to be applied to the payment of the bonds at maturity.

Water rents, how fixed, and bonds, how paid, &c.

An act to authorize cities to issue bonds for the funding of water debts and to provide for their payment.

Approved April 17, 1891. P. L. 1891, p. 486.

1185. SEC. 1. That whenever in any city of this state, owning and controlling water works for the supply of the inhabitants thereof, the board having charge and control of such water works shall have heretofore expended a part of the income derived by way of water rents in the extension of water mains and the construction of permanent improvements in connection with such water works, so that the income derived from such water works shall have proved insufficient to meet all expenditures made by said board, and said deficiency shall have been met by temporary loans made to said water department, it shall be lawful for the board having charge and control of the finances of such city, with the approval of the mayor of such city, to fund such temporary indebtedness or any part thereof by the issuing of water bonds of said city to take up the same, to an amount not exceeding three hundred and fifty thousand dollars.

Temporary debt may be funded by bonds in certain cases.

1186. SEC. 2. That the bonds to be issued under the provisions of this act shall be made payable at periods not to exceed thirty years from the date of issuing the same, and shall bear interest at a rate not exceeding five per centum per annum and be in such sums as the board having charge and control of the finances of such city shall determine; which bonds shall be executed under the corporate seal of such city and the signature of the mayor, comptroller or other proper financial officer thereof, and may be either registered or coupon bonds, as said board may direct; *provided*, that in order to redeem said bonds at maturity, it shall be the duty of the board having charge and control of the finances of said city to establish a sinking fund, into which it shall be the duty of the board having the charge and control of such water works to pay annually, in the month of July in each year, out of the income derived from such water-supply, a sum equal to two per centum of the bonds issued under the provisions of this act, which sinking fund shall be under the charge and control of the sinking fund commissioners of such city by whatsoever name they may be called.

Terms and conditions of such bonds.

Proviso.

Interest to be paid out of water rents.

1187. SEC. 3. That the interest on the bonds hereby authorized to be issued shall be paid semi-annually out of the collections for water rents in such city for said year, before expenditures therefrom for other purposes.

Duty of board to provide for such payment.

1188. SEC. 4. That the board having charge and control of the water works for the supply of such city shall, before making or incurring any obligation on behalf of such city against the water account thereof, lay aside and devote each year a sum sufficient to pay the interest upon all water bonds issued, and to be issued by such city on behalf of the water-supply thereof.

Bonds, how sold.

1189. SEC. 5. That the board having charge and control of the finances of such city may dispose of the bonds hereby authorized to be issued at public sale for the best price that can be obtained for the same, or at private sale in case a more favorable bid can be obtained than shall have been bid publicly therefor, but in no case for less than par, and all moneys derived from the sale of said bonds shall be inviolably applied to and used for the payment of said temporary loans.

An act to authorize cities to issue temporary bonds in certain cases.

P. L. 1892, p. 19.

Approved February 8, 1892.

Preamble.

WHEREAS, It has been found that bonds, which the cities of this state are authorized to issue to refund other bonds falling due, can in some cases be negotiated and sold at a more favorable rate, in case more time is given in which to make disposition of the same; therefore,

When temporary bonds may be issued in anticipation of permanent renewal bonds.

1190. SEC. 1. That where cities of this state are authorized to issue bonds to refund other bonds falling due it shall be lawful to issue any part of the bonds there authorized temporarily, such temporary bonds to run for a period not to exceed two years, and bear interest at a rate not greater than the permanent bonds so authorized, and such temporary bonds may be taken up and replaced by permanent bonds to be issued under the authority so given; *provided*, that in no case shall the total amount of bonds, permanent or temporary, exceed the amount authorized to be issued to refund bonds so falling due.

Proviso.

Temporary bonds to be retired by permanent bonds.

1191. SEC. 2. That when in any case such temporary bonds are issued they shall be deemed and taken to be part of the loan first authorized, and shall be taken up and retired by the issue of permanent bonds to run for the balance of the term provided for in the act under which the permanent issue is authorized, and that while such temporary bonds are outstanding it shall be the duty of the city issuing the same to make annual provision for the payment of the interest due, or to become due thereon, and also for such sinking fund as is required by the act under which the permanent bonds are issued.

An act authorizing the cities of this state to issue bonds to exchange for or pay matured water bonds.

P. L. 1892, p. 87.

Approved March 10, 1892.

Water bonds that have matured may be renewed.

1192. SEC. 1. That whenever any water bonds heretofore issued by any board of water commissioners, or other competent board, in the corporate name of any city of this state, under the authority of law, shall have matured, the board of water commissioners of said city, or other competent board of said city, may issue bonds equal to the whole amount of said matured bonds, or any part thereof, in the corporate name of the said city, to be denominated on their face (name of city) city water bonds, bearing interest at a rate not exceeding five per centum per annum, and the said interest shall be paid semi-annually; and the principal of said debt shall be payable at periods not less than ten nor more than fifty years from date; and the water commissioners, or other competent board as aforesaid, may sell the said bonds for the best price that can be obtained; *provided*, such price is sufficient to cancel the whole amount of such matured bonds, for which purpose it shall be applied; or the new bonds may be exchanged for the matured bonds upon the best terms that can be obtained, which

Terms and conditions thereof.

Proviso.

bonds shall be of the denomination of fifty dollars and multiples thereof, and shall be executed under the corporate seal of said city and shall be signed by a majority of the members of the board of water commissioners, or other competent board, and shall be countersigned by the mayor of said city; and a record of all bonds issued or disposed of shall be kept by said commissioners, or the board issuing the same, and copies of such record shall be made and delivered to the treasurer, or other proper financial officer of said city; said bonds shall have coupons attached for every half-year's interest until due, or may be registered, or the principal of the coupon bonds may be registered, at the option of the holder.

Payment of interest, how provided for.

1193. SEC. 2. That in case the revenue received from water supplied, shall not in any year be sufficient to pay the interest, and all the necessary expenses of the operation of the water works and supply, an amount equal to such deficiency shall be provided for, and paid by the said city, and the proper authorities thereof are hereby authorized and required to assess and raise for that purpose, by tax, such amount as may be necessary, in addition to the other taxes authorized by law.

Payment of principal, &c., how provided for.

1194. SEC. 3. That the water commissioners of said city, or other board having charge of the water-supply, shall fix the water rents, or prices for water, with reference to paying from the proceeds thereof the interest and principal of the bonds as they respectively fall due and such portions of the money received as may remain after paying all expenses for maintaining the works and raising and distributing the water, and salaries, wages, and incidental charges shall be applied first, to the payment of interest upon the bonds issued under authority of this act, and next, to the purchase of said bonds if the same can be obtained at reasonable rates, or if that cannot be effected then to be safely invested and allowed to remain as a sinking fund to be applied to the payment of the bonds at maturity.

An act to authorize cities of this state to issue bonds to provide for the payment of indebtedness heretofore incurred for street and sewer improvements, in anticipation of the collection of assessments.

Approved March 26, 1892. P. L. 1892, p. 283.

Cities authorized to issue bonds to pay for street and sewer improvements in anticipation of the collection of assessments.

1195. SEC. 1. That it shall be lawful for any city in this state not having power in its charter or otherwise to issue bonds for the purposes hereinafter mentioned, by and through its common council or other governing board having control of the finances thereof, from time to time to borrow money for the use of said city in such sums as they may think best, in anticipation of the collection of assessments, heretofore or hereafter to be imposed, for work heretofore done and completed for street and sewer improvements in such city, and the money so borrowed shall not at any time exceed the costs of such improvement, or where an assessment for benefits has been or shall hereafter be laid, the amount of such assessment and the same shall be secured by the issue of bonds, payable in not exceeding ten years, and drawn in such form and payable in such manner as the said common council or other governing board may fix and determine, and shall be either registered or coupon bonds and shall bear interest at not exceeding six per centum per annum, and shall not be sold at less than par.

Assessments pledged to sinking fund.

1196. SEC. 2. That all moneys received as principal and interest on account of the said assessments for street and sewer improvements, in anticipation of which bonds shall be issued by virtue of the provisions of this act, are hereby pledged and appropriated to the commissioners of the sinking fund of said cities for the payment of the principal and interest of the bonds hereby authorized to be issued, and in any city where there are no commissioners of the sinking fund, such board shall be created by said city before issuing any such bonds.

Duty of commissioners of sinking fund.

1197. SEC. 3. That it shall be the duty of the said commissioners of the sinking fund, or such board or department of any such city, to pay the interest on the above-mentioned bonds as the same may fall due, and all

surplus money that may come into their hands above the amount needed to pay the interest as aforesaid shall be safely invested by them as now or may hereafter be required by law in such city and applied to the payment of the said bonds as they shall fall due.

Amount of bonds that may be issued.

1198. SEC. 4. That the amount for which bonds shall be issued by any city under the provisions of this act, may be in excess of any limitation in its charter or supplements thereto, as to the amount of its bonded indebtedness.

If assessments cannot be legally imposed, expenses to be raised by tax.

1199. SEC. 5. That in any case where the courts shall determine that no assessment can be legally imposed for such improvement, and the expense thereof would have to be paid by general tax, that in such case one-tenth of all such expenses that cannot be assessed shall be levied each year by a tax upon the ratables of said city, and the money thus collected shall go into said sinking fund to pay the bonds issued under this act.

An act concerning the rate of interest on certain municipal bonds.

P. L. 1893, p. 266.

Approved March 14, 1893.

Rate of interest on bonds for public improvements prescribed.

1200. SEC. 1. That wherever by any act of the legislature any of the cities in this state are authorized to issue bonds for public improvements, and in and by such act or acts the rate of interest on such bonds is fixed at six per centum per annum or any other fixed rate or sum, that hereafter it shall be lawful for any such cities to issue such bonds at a rate of interest to be fixed by the common council, board of aldermen or other governing body, such rate not to exceed the sum of five per centum per annum.

Repealer.

1201. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

An act authorizing cities to renew maturing bonds.

P. L. 1893, p. 337.

Approved March 16, 1893.

When city bonds may be renewed.

1202. SEC. 1. That whenever any bonds heretofore legally issued by any incorporated city in this state under authority of law shall at any time or times hereafter become due, the board of aldermen, common council or other board having charge and control of the finances of such city, with the approval of the mayor of such city, may renew said indebtedness or any part thereof by the issuing of the bonds of said city for that purpose; *provided, however*, that no such bonds shall be renewed in cases where there are moneys or securities in any sinking fund of such city specifically appropriated for the redemption of said maturing bonds until after the moneys and securities of said sinking fund so specifically appropriated shall have been exhausted in the payment of maturing bonds.

Proviso.

Terms and conditions of such bonds.

1203. SEC. 2. That the bonds to be issued under the provisions of this act shall be exempt from taxation, and made payable at periods not exceeding thirty years from the date of issuing the same, and shall draw such rate of interest not exceeding five per centum per annum, and be in such sums as the board having charge and control of the finances of said city shall determine, which bonds shall be executed under the corporate seal of said city, and the signature of the mayor, comptroller or other proper financial officer thereto, and may be either registered or coupon bonds, as said board may direct; *provided*, that in order to redeem the bonds issued under the provisions of this act at maturity, it shall be the duty of the board having charge and control of the finances of such city to establish a sinking fund, which shall be created by a special tax of not less than two per centum on the issues herein provided for, to be raised in each annual tax levy, or from the collection of water rents in cases where the bonds hereby authorized to be re-issued were originally issued for the water department of such city.

Proviso.

Interest to be raised by special tax annually.

1204. SEC. 3. That the interest on the bonds hereby authorized to be issued from time to time shall be raised and paid by a special tax or appropriation, to be annually levied and collected as other taxes in such city are

now or may hereafter be levied and collected, and the whole of each year's interest shall be so raised, levied, collected and paid within each year; *provided*, that the interest on all bonds re-issued in place of maturing water bonds shall be paid out of the collections for water rents in such city for said year. Proviso.

1205. SEC. 4. That the board or authority having charge and control of the finances of such city may dispose of the bonds hereby authorized at a public sale or private sale in case a more favorable bid can be obtained than shall have been bid publicly therefor, but in no case for less than par, which issues and sales may be made in anticipation of the retirement of said maturing bonds, and all of the moneys received from the sale of said bonds shall be applied and used for the purposes of this act, and for no other purpose; *provided*, that no increase in the bonded indebtedness of any such city shall be made under this act. Bonds, how sold. Proviso.

An act to authorize cities in this state to issue bonds in certain cases.

Approved March 22, 1895. P. L. 1895, p. 461.

1206. SEC. 1. That where any city in this state is now or hereafter may be authorized to purchase or condemn lands, property, or rights in lands or property for public purposes within the limits of such city, and no adequate provision is made or authority given to provide for the payment therefor, it shall and may be lawful for the city council or other governing body of such city to issue and dispose of the bonds of such city, on its faith and credit, for any sum not exceeding one hundred thousand dollars, and to use the proceeds thereof for such purpose. Bonds may be issued to pay for lands acquired by purchase or condemnation.

1207. SEC. 2. That all bonds so issued shall state on their face that they are issued in pursuance of the authority of this act; they shall bear interest at a rate not exceeding five per centum per annum, and may run from their date for a term not exceeding thirty years; they may be of such form and be made payable, principal and interest, at such place and at such times (not exceeding the term aforesaid) as the city council or other governing body may by ordinance provide. Terms and conditions of bonds.

1208. SEC. 3. That whenever bonds shall be issued under the authority of this act by any city, such city shall have the right to provide for the payment of the sum by taxation, and it shall be the duty of the proper authorities of such city, either by taxation, or from other revenue received therein, to provide for the payment of the principal and interest thereof as the same shall fall due. Payment shall be provided for by taxation.

7. SINKING FUND.

An act relative to the appropriation of money devoted to the sinking fund of certain cities in this state.

Approved April 21, 1876. P. L. 1876, p. 244.

WHEREAS, There exist in certain cities in this state, by virtue of various legislative acts thereof, commissioners of sinking funds of said cities to whom are pledged and appropriated by said acts certain moneys for the payment of the principal and interest of the bonds authorized to be issued from time to time by the legislature of this state; *and whereas*, it may happen that the commissioners of any one of the sinking funds established as aforesaid have now, or may have hereafter funds in their possession sufficient to meet the said bonds payable, out of said money appropriated as aforesaid, together with interest thereon, before the maturity of the same, and upon payment thereof, no means are now provided by law for the use and application of the said money so devoted as aforesaid to the commissioners of said sinking fund; therefore, Preamble.

1209. SEC. 1. That where the said commissioners of any sinking fund of any city in this state, have now or shall have hereafter funds in their possession sufficient to pay, before maturity, the bonds issued by authority of law, and payable out of said money pledged to said commissioners for the In cities, commissioners of sinking funds may purchase and cancel bonds before maturity, &c.

payment thereof, it shall be the duty of the said commissioners to cancel all bonds now in their possession, or which they may be able to procure, by purchase or exchange, of any one of the issues heretofore authorized by law, and not heretofore canceled, and any surplus remaining in their hands after the bonds issued as aforesaid, with interest thereon, shall have been paid and canceled, shall be devoted to such sinking fund of said city, as the mayor and common council, or other governing body of said city, or any board of finance of any city where such a board exists, shall direct.

How surplus in sinking fund, after providing for payment of bonds, may be ppropriated.

1210. SEC. 2. That after the accumulation of funds sufficient to pay all the said bonds authorized to be issued as aforesaid, by the said commissioners to whom the said moneys have been appropriated as aforesaid, it shall be lawful for the mayor and common council, or other governing body of said city, or any board of finance of any city where such board exists, by ordinance to appropriate any surplus remaining after providing for the payment of said bonds and the revenues before appropriated to the sinking fund thus discharged, to any other sinking fund of said city pledged for the payment of its obligations, and after the passage of such ordinance the revenues so appropriated shall not be diverted to any other use or purpose until there shall have accumulated sufficient moneys to pay the obligations to which such sinking fund was pledged, when the same shall be appropriated by ordinance as aforesaid to some other sinking fund of said city, so long as said city has any outstanding bonds for the payment of which a sinking fund exists.

An act creating a sinking fund for the payment of certain assessments in cities.

P. L. 1878, p. 260.

Approved April 3, 1878.

When cost of any improvement exceeds assessments, interest and principal of such excess to be raised by special tax and paid into sinking fund.

1211. SEC. 1. That in all cases where any commissioners of assessments, board of assessors or other persons having the power or authority by any act or acts of the legislature of this state to assess the costs, damages and expenses of any improvement upon lands, or upon the owner or owners of lands benefited by such inprovement, shall assess, or have assessed, upon the same an amount less than the total cost of any improvement, it shall be lawful for the city council, board of aldermen, township committee or other corporate authority of any city, town, township or incorporated place, and they are hereby required to raise, by special tax, the amount of interest accruing and to accrue in each year upon the amount of the total cost of such improvement not specially assessed upon the lands, or upon the owner or owners of the lands benefited by said improvement, whether the same or any part thereof be in the form of permanent or temporary obligations, together with at least one per centum of the principal of said obligations; the amount raised in each year on account of the principal of said obligations to be deposited and held by the sinking fund commissioners or other similar body, if any, and if none, then by the legislative body of such corporation, as a sinking fund for the payment of the principal of said obligations, and to be used for no other purpose whatever; *provided, however*, that nothing in this act contained shall in any way affect or impair the provisions of the act of the legislature of New Jersey entitled "An act respecting bonds of cities, towns, townships and other incorporated places," approved April twenty-second, eighteen hundred and seventy-six.

Proviso.

An act to enable cities to create and maintain a sinking fund for the redemption of their bonded indebtedness.

P. L. 1879, p. 270.

Approved March 14, 1879.

Cities having less than 100,000 inhabitants may establish a sinking fund.

1212. SEC. 1. That it shall and may be lawful for any city in this state, having a population less than one hundred thousand inhabitants, by resolution of the common council thereof, at any time hereafter, to establish a sinking fund for the cancellation of its bonds, and from time to time to fix

the rate to be annually assessed therefor; *provided, however*, that the rate to be so assessed for the said purpose shall not in any case exceed one-quarter of one per centum of the valuation of real and personal estate for general taxation. Proviso.

1213. SEC. 2. That on application by, or on behalf of the common council of any city in this state, which may pass such resolution as aforesaid, the supreme court of this state, or any justice thereof, shall appoint under his hand, some person, to be styled "commissioner of sinking fund," who shall have the management of the sinking fund of such city, and the said court or justice shall also, thereupon, fix the yearly compensation of such commissioner, which shall include and cover all the expenses of the said office; and shall also determine the amount in which such commissioner shall give bond, and the number of his sureties; and the said commissioner, before entering upon the duties of his said office, shall execute a bond to such city, in the corporate name thereof, in such amount and with such number of sureties as aforesaid, conditioned for the faithful performance of all the duties of his said office, which said bond shall be approved by the said supreme court, or justice thereof. Justice of the supreme court to appoint commissioner of sinking fund. Compensation of commissioner. Shall give bond.

1214. SEC. 3. That the said commissioner shall reside in the city for which he may be appointed during his whole term of office, which shall be five years, and until a successor shall be appointed; but in case of death, removal from the said city, or other disability, a successor shall be immediately appointed as aforesaid, for the term of five years, who shall give bond as aforesaid. Term of office and place of residence of commissioner.

1215. SEC. 4. That when, at any time hereafter, any city in this state shall, by resolution of the common council thereof, determine to assess a certain annual rate for the purpose mentioned in the first section of this act, not exceeding the rate therein mentioned, and shall have procured to be appointed a commissioner in the manner indicated in this act, and the said commissioner shall have given bond, and the same shall have been approved as aforesaid, such assessment shall be added to and levied, and raised with and in the same manner as the general tax levy of such city, and form a part thereof, and the money so raised shall be paid into the hands of such commissioner as, and when, and as soon as the same shall be collected by the collector of taxes (in the ratio that the amount received shall bear to the amount levied) for the purpose of establishing a sinking fund for the payment and cancellation of the bonds of such city. Annual assessment to form a part of the general tax levy of the city.

1216. SEC. 5. That all moneys received by such commissioner as aforesaid shall be invested by him, as such commissioner, for the benefit of the said sinking fund, within three months after the receipt thereof: Investment of moneys by commissioner.

I. In the bonds of such city when they can be purchased at a rate satisfactory to such commissioner and the mayor and treasurer of such city;

II. In bonds of the United States;

III. In bonds of any county of this state when they can be purchased at a rate satisfactory to such commissioner, mayor and treasurer as aforesaid.

1217. SEC. 6. That all the bonds of such city, the redemption whereof shall not be otherwise provided for, shall be redeemed, paid and canceled by the means aforesaid as rapidly as possible; and as soon as the same shall be paid and canceled, all compensation to such commissioner shall cease, notwithstanding that his term of office may not then have expired. Redemption and cancellation of bonds.

1218. SEC. 7. That such commissioner shall report in writing, under his hand, to the said common council, every six months, all the transactions of his said office during the preceding six months, and that the finance committee of the said common council shall, at all reasonable times, have the right to inspect the books, papers. vouchers and transactions of such commissioner's office. Semi-annual reports to be made.

An act authorizing the establishment of sinking funds in cities in this state.

P. L. 1881, p. 189.

Approved March 23, 1881.

City council authorized by ordinance to create and regulate a sinking fund, &c.

1219. SEC. 1. That the city council of any city in this state is hereby authorized and empowered by ordinance to create, establish, maintain and regulate a sinking fund in any such city, and define the powers and duties of the board or committee in charge thereof; *provided*, that whenever any bonds shall have been issued by any city under any general law or agreement or compromise, the amount of the collections of all taxes, assessments, license fees or special sums pledged or raised for the payment of said bonds shall be applied in accordance with the laws and agreements under and in pursuance of which said bonds may have been issued, and it shall be the duty of the sinking fund commissioners of any city, or those which may be appointed under the provisions of this act, to have charge of and carry out the proper disposition of said collections.

Proviso.

An act to authorize additions to sinking funds in cities.

P. L. 1882, p. 204.

Approved March 28, 1882.

Board of commissioners of water works authorized to make additions to sinking fund annually in order to provide for payment of bonds.

1220. SEC. 1. That in cities where there are water works in operation under the control of a board of commissioners, and where a sinking fund has been established by them for the redemption of bonds issued for the purchase or extension of said works, such board of commissioners are hereby authorized to make additions to such sinking fund annually to such amount as they deem proper and necessary in order to provide for the payment of all bonds issued by authority of law by such board, and with authority to make such regulations for and disposition of such fund as may be necessary to make it applicable for the redemption of the several series of bonds issued as they mature; such amounts as may be appropriated by authority of this act may be paid from the revenues derived from the use of water, and are not to exceed annually an amount equal to ten per centum of the water rent revenues of the preceding year.

An act relating to sinking funds in cities.

P. L. 1883, p. 221.

Approved March 23, 1883.

Excess of fund over amount necessary for redemption of a particular class of bonds to be transferred to some other fund.

1221. SEC. 1. That whenever, in any city in this state, a sinking fund has been created for the redemption of a particular series or class of bonds of such city, and the fund so created has accumulated to an amount in excess of the sum needed to redeem all bonds now outstanding against said fund, it shall be the duty of the commissioners of such sinking fund to transfer such excess to such other sinking fund for the redemption of other bonds of said city as the said commissioners shall direct, and to place the same, when so transferred, in said fund.

Excess of income from market fees, license fees, &c., applied to interest on bonds, &c.

1222. SEC. 2. That whenever, in any city, the income accruing from market fees, license fees or any source other than from the annual tax levy, has been or may be appropriated by law to the formation or increase of a sinking fund for the payment of any class, issue, denomination or series of bonds heretofore issued in such city, and there exists no authority to increase such issue, and it shall appear to the common council of such city that the amounts of moneys annually received from the sources indicated do largely exceed the needs of said fund for the necessary provision for said bonds at their maturity, and that the interest on the said bonds can, with safety, be required to be paid out of the income to said fund, as well as an ample provision be made to provide for the principal long before it is due; that in such case it may be lawful for the common council to provide annually, by resolution, for the use of such part or all of the license and market fees coming into said fund for the payment of such interest and other city purposes as, in their judgment, may be necessary and proper; *provided*, that not less than three per centum of the amount of the outstanding bonds shall be annually carried to the sinking fund, to

Proviso.

redeem the principal of the said bonds, until the fund for the redemption of such bonds shall aggregate the full amount of the outstanding bonds.

In certain cases the interest due on a particular class of bonds may be paid out of interest received on securities held by sinking fund commissioners.

1223. SEC. 3. That where, by law, a specific special tax is required to be raised annually, and set apart and invested by the sinking fund commissioners of any city in this state to meet the bonds provided to be paid by said specific fund at their maturity, and it shall appear by the report of said commissioners to the common council for the fiscal year of one thousand eight hundred and eighty-two, that the principal sum of all the bonds required to be met and paid for at that date or thereafter, is already in the hands of such commissioners in securities or cash, or that the annual addition to the fund in the hands of such commissioners by the time the unprovided-for bonds fall due, will, from the annually-paid specific tax, equal or exceed the principal of all of the bonds to be paid out of such fund without the retention by the commissioners of the annual addition of interest on the securities held by them as security for the payment of the principal of said outstanding bonds, then it shall be lawful for the common council to which such annual report of the commissioners shall be made, to order and direct, by resolution, that the interest on the securities held by the sinking fund commissioners, or so much thereof as they may deem wise, shall be used by the said commissioners for the payment of the interest on the bonds outstanding, and which are to be paid out of and by any particular sinking fund in any city of this state, and to forbear to assess and collect, by taxation, the amount of interest so directed to be paid.

Commissioners shall make report of action in thirty days, &c.

1224. SEC. 4. That said commissioners shall make a report of their action, under the first section hereof, to the common council of said city, within thirty days after the approval of this act, and said common council shall omit from the next tax levy for the payment of said principal to which said transfer is made, an amount equal to the said excess so transferred by said commissioners.

An act concerning cities of this state.

Approved March 27, 1884. P. L. 1884, p. 107.

Percentage of tax that may be expended for all city purposes where bonded debt exceeds $13,000,000.

1225. SEC. 1. That it shall not be lawful for the city authorities of any city in this state having a permanent or bonded debt exceeding thirteen million dollars, to expend, in any one year, more than ninety per centum of the amount fixed as the amount to be raised in such city during such year for all city purposes.

Moneys in excess of limit of expenditure appropriated to sinking fund.

1226. SEC. 2. That all moneys received in excess of the limit of expenditure fixed as aforesaid are hereby appropriated to a sinking fund of such city, and shall not be loaned from such sinking fund to any other department or board of such city, but shall be used solely for the payment of bonds of such city hereafter falling due, or for the purchase of bonds for the purpose of cancellation.

Management and control of sinking fund.

1227. SEC. 3. That where there are commissioners of the sinking fund of any city, the sinking fund hereby created shall be under their management and control; where such commissioners are not by law provided for, a sinking fund, for the purposes of this act, shall be provided for by the city board having control of the finances of such city.

An act to authorize commissioners of the sinking fund in cities of this state to transfer funds held by them in certain cases.

Approved April 5, 1886. P. L. 1886, p. 184.

Commissioners of sinking funds in cities authorized to transfer moneys in certain cases to some other fund.

1228. SEC. 1. That where, in any of the cities of this state, moneys have been raised by taxation and turned over to the commissioners of the sinking fund therein for the payment of bonds or obligations which were not issued, and there is no indebtedness of the city to the payment of which the funds so held are specially pledged or set apart, that it shall and may be lawful for such commissioners, at the request of the common council or other governing body of such city, to transfer the moneys so held by them

to any other fund held by them for the payment of the indebtedness of such city, and that to the extent to which the fund to which the transfer is so made is augmented thereby it shall not be necessary for the city to provide by further taxation.

An act authorizing the cancellation of certain bonds and obligations of cities of this state held by the commissioners of sinking funds thereof.

P. L. 1890, p. 289.

Approved May 5, 1890.

Commissioners authorized to cancel certain bonds or obligations.

1229. SEC. 1. That from and after the passage of this act the commissioners of sinking funds of any city in this state may and they are hereby authorized to cancel any bonds or obligations of the city whereof they may be commissioners as aforesaid, which may be held by them and upon which the interest may be in default and unpaid.

Repealer.

1230. 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.

An act fixing the compensation of commissioners of the sinking fund in cities of this state.

P. L. 1890, p. 331.

Passed May 12, 1890.

Compensation of commissioners of sinking fund in certain cities.

1231. SEC. 1. That in all cities of this state that have accepted by popular vote the provisions of "An act concerning the government of cities of this state," approved April sixth, one thousand eight hundred and eighty-nine, the commissioners of the sinking fund in said cities shall be entitled to and they shall be paid a compensation of five hundred dollars each per annum, to be paid in the manner in which all expenses are prescribed by said act to be paid; *provided*, the board having charge and control of the finances in any such city shall concur in the payment of the salaries provided for by this act.

Proviso.

An act authorizing the sinking fund commissioners of certain cities in this state to cancel the municipal bonds of such cities held by them for the redemption of the debts of their respective cities.

P. L. 1895, p. 69.

Approved February 12, 1895.

Sinking fund commissioners may cancel certain bonds before maturity.

1232. SEC. 1. That whenever the municipal debt of any city in this state exceeds, or shall hereafter exceed fifteen per centum of the assessed valuation of the real and personal property in such city for purposes of taxation, it shall be lawful for the commissioners of the sinking fund of such city to cancel all bonds that have been or may hereafter be purchased by them for the redemption of the debts of such city notwithstanding such bonds may not be by their terms due and payable at the time of such purchase.

Repealer.

1233. SEC. 2. That all acts and parts of acts, general, special or local, and inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

8. LICENSES.

An act concerning cities.

P. L. 1877, p. 44.

Approved March 2, 1877.

Licensing of junk shops.

1234. SEC. 1. That the common councils or boards of aldermen of the several cities of this state shall have power by ordinance to license, regulate, control or prohibit the keeping of shops, commonly called "junk shops," or shops for the purchase and sale of junk, old rope, old iron, brass, copper, tin, lead, rags and slush, under such regulations and upon such terms as the said councils or boards of aldermen may adopt.

An act to authorize cities to license and regulate the erection of bill-boards.

Approved February 24, 1882. P. L. 1882, p. 24.

Cities authorized to license the erection of bill-boards.

1235. SEC. 1. That it shall be lawful for the common council, board of finance or other legislative body, however designated, of any city of this state, to license the erection of bill-boards in any of the streets, roads or highways of any such city; *provided*, that in addition to the authority of any governing body of any such city, the consent of property-owners in front of whose premises said bill-boards are proposed to be erected shall be first had and obtained before the erection thereof; and it shall be lawful for said common council, board of finance or other legislative body of any city to exact an annual license fee from the person or persons obtaining consent to erect such bill-boards, which said license fee may be levied and collected for the purpose of revenue.

Proviso.

Rights of licensee, how protected.

1236. SEC. 2. That the common council, board of finance or other legislative body of any such city may pass ordinances for the regulation and protection of the rights of persons obtaining such license.

An act relating to the licensing and regulating of bill-posters in cities.

Approved March 3, 1882. P. L. 1882, p. 43.

Cities may provide by ordinances for the licensing of bill-posters.

1237. SEC. 1. That it shall be lawful for the common council, board of finance or other legislative body, however designated, of any city in this state, to provide, by ordinance, for the licensing of bill-posters in any such city, and to adopt such rules, regulations and restrictions with reference to the conduct of the said business and the persons by whom it may be carried on, as to it shall seem proper; *provided*, that the consent of property-owners in front of whose premises bill-boards are erected or bills posted shall be first had and obtained; and it shall also be lawful for said common council, board of finance or other legislative body of any city to exact an annual license fee from the persons engaged in said business, which said license fee may be levied and collected for the purpose of regulation.

Proviso.

An act granting to cities the right to license roller-skating rinks or halls, and to regulate the keeping of the same.

Approved April 20, 1885. P. L. 1885, p. 286.

Lawful for cities to license roller-skating rinks.

1238. SEC. 1. That it shall be lawful for the common council, board of aldermen or other legislative body, however designated, of any city in this state to pass, alter and repeal ordinances for licensing any public place of amusement, hall or rink used or to be used for roller-skating in any such city, and for fixing the license fees to be assessed for the same, which fees may be assessed for revenue, and to adopt such rules, regulations and restrictions with reference to the conduct of all such places of amusement where roller-skating is practiced, as to it shall seem proper.

An act empowering governing bodies of cities to license junk dealers and prohibit unlicensed persons from dealing in junk.

Passed April 13, 1886. P. L. 1886, p. 224.

Cities authorized to license junk dealers, and prohibit unlicensed persons.

1239. SEC. 1. That it shall be lawful for the common council or other governing body of any city to make, establish, publish, modify, amend or repeal ordinances, rules, regulations and by-laws, to license and regulate all persons engaging in the business of buying or selling old rope, old iron, brass, tin, copper, lead, rags, glass, paper, and any other kind of material commonly called junk, and to prohibit unlicensed persons from engaging in such business.

Persons violating ordinances may be arrested.

1240. SEC. 2. That after the passing of any ordinance, rule, regulation or by-law for the purposes mentioned in the first section of this act, it shall be lawful for the license inspector by whatever name designated, or

any police officer of such city, to summarily arrest any person violating the provisions of such ordinances.

Trial, before whom to be had.

1241. SEC. 3. That it shall be lawful to carry such person so arrested before any magistrate of said city, before whom violations of ordinances are triable, whereupon such magistrate shall determine whether the person so arrested has been guilty of the violation complained of.

Penalty for violation of ordinances.

1242. SEC. 4. That on the conviction of such person for such violation, it shall be lawful for said magistrate to impose a fine on such person of not less than one dollar nor more than twenty-five dollars, together with lawful costs, and in default of such fine and costs being paid, to commit such person so convicted to the county jail or prison for a period not to exceed ten days.

Fines paid into city treasury.

1243. SEC. 5. That all fines and costs so received shall be paid into the treasury of said city, the same as fines and costs received from the violation of ordinances.

Repealer.

1244. SEC. 6. That all acts and parts of acts, general and special, inconsistent with this act be and the same are hereby repealed.

An act concerning cities.

P. L. 1889, p. 41.

Approved March 4, 1889.

Licensing omnibuses, peddlers, pawnbrokers, &c.

1245. SEC. 1. That it shall be lawful for the board of aldermen or common council of any incorporated city of this state to pass ordinances for the following purposes: to license and regulate omnibuses, carriages and all other vehicles used for the transportation of passengers, baggage, merchandise and goods and chattels of any kind, and the owners and drivers of vehicles and means for and of transportation, also common criers, peddlers, pawnbrokers, sweeps, scavengers, musicians when playing on the street and not in procession or parade, traveling and other shows, circuses, theatrical performances, plays, athletic exhibitions, concerts, skating rinks, and also the place or places or premises in which or at which the different kinds of business or occupation mentioned herein, are or may be carried on or conducted, and to fix the rate of compensation to be paid therefor, and to revoke any of said licenses, and to prohibit all such persons and places, and all vehicles unlicensed from acting, using or being used in said capacities and for such uses and purposes, and to impose fees for said licenses, and to fix and prescribe penalties for the violation of any such ordinance or ordinances.

Repealer.

1246. SEC. 2. That all acts and parts of acts inconsistent herewith, be and they are hereby repealed, and this act shall take effect immediately.

An act concerning the granting of licenses for shows, circuses and athletic exhibitions in cities.

P. L. 1890, p. 360.

Approved May 28, 1890.

Licensing shows, plays, &c.

1247. SEC. 1. That it shall be lawful for the board of aldermen or common council of any incorporated city of this state to pass ordinances for the following purposes: to license, regulate and prohibit traveling and other shows, circuses and menageries, also athletic and scientific exhibitions, also theatrical and variety performances and plays, also plays, singing or performances of any kind in any place where liquors are sold, and to revoke any of said licenses, and to fix and prescribe penalties for the violation of any such ordinance or ordinances, and that the license fees to be charged for such purpose shall be as follows, to wit: for a license for a circus, with or without a menagerie, charging twenty-five cents or more for one admission, the sum of not exceeding five hundred dollars for each day; for a license for a circus, with or without a menagerie, charging from ten to twenty-five cents for a single admission, the sum of not exceeding one hundred dollars for the first week, and the sum of not exceeding fifty dollars for each week thereafter the same shall continue; for a license for a concert or entertainment charging fifty cents or more for a single admission, the sum of not exceeding twenty-five dollars for each concert; but this pro-

Fees that may be charged.

vision shall not apply to a concert or entertainment given for charitable or benevolent purposes; for a license for an athletic or scientific exhibition, the sum of not exceeding one hundred dollars for each exhibition; for a license for a theater, or for a theatrical or variety performance or play, the sum of not exceeding and at the rate of three hundred and fifty dollars a year; for a license to permit plays, singing or performances of any kind in any place where liquors are sold, the sum of not exceeding and at the rate of twenty-five dollars a month.

1248. SEC. 2. That all acts and parts of acts inconsistent herewith, be and the same are hereby repealed, and this act shall take effect immediately. Repealer.

An act to provide for the regulation and licensing of keepers of employment agencies and intelligence offices.

Approved March 1, 1893. P. L. 1893, p. 89.

1249. SEC. 1. That the common council or the legislative body in any city of this state be and is hereby authorized and empowered to make, establish, publish, modify, amend and repeal ordinances, rules and regulations to license and regulate keepers of employment agencies or intelligence offices; to fix the rates of compensation to be allowed to them; to require them to furnish bonds to such city for the faithful observance by them of all the requirements and provisions of such ordinances, rules and regulations of such city; to prohibit unlicensed persons from keeping or maintaining any such employment agency or intelligence office; and to provide for the proper inspection and supervision of the said agencies or offices. Licensing employment agencies and regulating the same.

An act concerning licenses in cities of this state.

Approved May 8, 1894. P. L. 1894, p. 221.

1250. SEC. 1. That it shall be lawful for the common council, board of finance, or other legislative body, however designated, of any city in this state, to provide by ordinance for the licensing of bill-posters, card-tackers, bill distributors, advertising agencies or any other medium of distribution or display of printed or written advertising matter, and to adopt such rules, regulations and restrictions with reference to the conduct of the business to be carried on by such licensees as to it shall seem proper. Licensing and regulating bill-posters, card-tackers, &c.

1251. SEC. 2. That it shall be lawful for the common council, board of finance, or other legislative body, however designated, of any city of this state, to provide, in any ordinance passed by virtue of the provisions of the first section of this act, that any licensee thereunder may erect bill-boards or display signs in any of the streets, roads or highways of any such city; *provided*, the consent of property-owners in front of whose premises said bill-boards or display signs are proposed to be erected shall be had and obtained before the erection thereof. Licensee may erect bill-boards, signs, &c.

1252. SEC. 3. That it shall be lawful for said common council, board of finance, or other legislative body of any city to provide in any such ordinance for the exaction from any person or persons or corporation licensed thereunder of an annual license fee, which said license fee may be levied and collected for the purpose of revenue. License fee may be imposed for revenue.

1253. SEC. 4. That this act shall take effect immediately, and that all acts and parts of acts inconsistent with any of the provisions of this act be and the same are hereby repealed; *provided*, that any ordinance heretofore passed by the governing body of any city, passed under the provisions of any existing law, shall remain in full force and effect until repealed, changed, or altered by the body passing the same. Repealer. Proviso.

9. INCUMBERED CITIES.

An act in relation to cities.

P. L. 1880, p. 150.

Approved March 10, 1880.

When any city is unable to raise and pay annual charge upon indebtedness, common council may offer terms of settlement to creditors, and issue bonds to such amount as they may deem necessary.

1254. SEC. 1. That whenever any city in this state shall be unable, in the judgment of the city council or other legislative body thereof, to raise and pay the annual charge upon the municipal indebtedness of such city, which judgment shall be expressed by the resolution of such city council or other legislative body, by the votes of three-fourths of the members thereof, it shall then be lawful for the said city council or other legislative body to offer such terms of settlement to the creditors of such city as such city council or other legislative body shall deem such city so indebted may be able to meet and carry out, and to issue bonds of such city for such an amount as they may deem necessary to carry out the terms of a settlement, in the manner hereinafter provided; said bonds shall be issued by ordinance of the city council or other legislative body of such city, passed by the votes of three-fourths of the members thereof, and said bonds shall be applicable to the purposes of the arrangement and settlement of the indebtedness of any such city with the creditors thereof, and for no other purpose, except as hereinafter provided; and the ordinance for the issue of said bonds shall be passed in like manner and in accordance with the same forms of law as all other ordinances for the issue of bonds heretofore passed in such city or cities; said bonds may be either coupon or registered, and exchangeable, the one class for the other at the option of the holder; and all said bonds so issued shall be entitled and designated adjustment bonds of the city, by which the same may be issued; *provided, however*, in no case shall such bonds be issued until the city council or other legislative body in said city or cities shall have determined, by resolution, the amount or percentage of existing indebtedness for which said adjustment bonds shall be issued; and as soon as the city council or other legislative body shall have determined upon the amount and character of the settlement they shall deem such city or cities as aforesaid may be able to make and carry out, it shall be the duty of said city council or other legislative body to submit such terms of settlement to the legal voters of such city or cities, in order to give undisputed validity to such issue of adjustment bonds by the indorsement of the same by a majority of the voters and taxpayers, should such terms of settlement as may be offered be agreed to.

Proviso.

Terms of settlement to be submitted to legal voters.

Legal voters may accept or reject terms of settlement.

1255. SEC. 2. That the manner of acceptance or rejection of such terms of settlement by the legal voters of such city or cities shall be as follows: the said city council or other legislative body shall give thirty days' notice, by publication in the daily and weekly papers of such city or cities, of a special election for that purpose; the polls shall be held at such places as the city council or other legislative body may determine, and the election shall be carried out in the same manner as provided for other municipal elections, and under the same laws, except as to the time of holding the same, which shall be fixed by the said council or other legislative body, and also except that but one day of registration of voters shall be required, which said day of registration shall be not more than four days before the day fixed for the said election; and the ballots cast at such election shall be as follows, to determine the will of the people: "in favor of the settlement of the debt as proposed," or "against the settlement of the debt as proposed," as the voter may determine.

If settlement is agreed to, adjustment bonds to be issued.

Rate of interest.

1256. SEC. 3. That whenever such settlement shall be agreed to in any city of this state, as hereinbefore provided, the adjustment bonds authorized by this act shall be issued in the manner provided for the issue of bonds in such city or cities, and such bonds shall bear a rate of interest to be fixed in the terms of settlement, not, however, greater than four per centum per annum, and shall be payable at such time or times as may be designated, not, however, less than twenty years from the date of issue;

but the said bonds may be made redeemable by such city or cities at any time after five years from the date of the issue of the same.

1257. SEC. 4. That it shall be lawful for such city or cities, through the finance department thereof, to exchange such bonds so issued for any legal evidence of indebtedness of such city, held by any creditor thereof with whom such finance department may agree for that purpose, in accordance with the terms of settlement which may be authorized and adopted in pursuance to the provisions of this act, and such city or cities may, by a majority vote of its finance board, and by a three-fourths vote of its city council or other legislative body, issue an amount of adjustment bonds in the manner authorized by the foregoing provisions of this act sufficient to cover the cost and expense of making the exchange as aforesaid; *provided*, the amount of bonds so issued shall not exceed one per centum of the amount of such bonds so exchanged, but no money shall be paid for commission except in cases where the city authorities shall be absolutely unable to make settlement, as intended by the provisions of this act.

Bonds issued may be exchanged for legal indebtedness.

Bonds may be issued to cover cost and expense of making exchange.

Proviso.

1258. SEC. 5. That the annual interest on the aforesaid adjustment bonds shall be raised by taxation, by the proper authorities of any such city which may be authorized by law to raise money by taxation, and such interest, together with any sum of principal which shall be raised by taxation by such authority, shall be paid by the proper authorities on such bonds for interest or redemption before the interest on any bonds or other evidences of indebtedness of such city in existence at the time of the issue of the bonds authorized by this act, except indebtedness incurred for current expenses.

Interest on bonds to be raised by taxation.

1259. SEC. 6. That all sums which shall be raised by any such city for the purpose of application to the payment of the bonds authorized by this act, shall be held as a sinking fund by the proper officers of said city, and shall be applied from time to time, to the reduction of the debt only by the redemption of said bonds, and said bonds shall, in all cases, be purchased at the market price, if below par in value; such bonds so purchased shall not again be issued, but shall, as soon as possible, be canceled, in the presence of the mayor, sinking fund commissioners, if any there be, and finance committee of the governing body of said city or a majority of them.

Money raised for payment of bonds to be held as a sinking fund.

Bonds purchased to be canceled.

1260. SEC. 7. That all revenues raised by any such city for licenses of any character whatever, and also all unexpended balances of the annual tax levy made for current expenses, which may remain unused at the end of each fiscal year, shall be used by the sinking fund commissioners for the purchase of any outstanding bonds, or other evidences of indebtedness, at the market price, not above par; *provided, however*, that such sums received from license fees and unexpended balances as aforesaid, shall be applied to the purchase and redemption of any portion of the indebtedness of any such city, now outstanding, which may not be included in the settlement contemplated by this act, and whenever all such indebtedness shall have been purchased or redeemed on behalf of such city, by the proper officers thereof, or exchanged under the terms of the settlement provided for in this act, then, and in such case, the said unexpended balances and license fees, when received, shall be turned into the sinking fund, which is made applicable to meet the principal of the adjustment bonds which may be issued under the foregoing provisions of this act.

Revenues from licenses and unexpended balances to be used for the purchase of outstanding bonds and other indebtedness.

Proviso.

1261. SEC. 8. That all acts and parts of acts inconsistent or in anywise in conflict with this act be and the same are hereby repealed, and that this act shall be deemed a public act and that it shall take effect immediately.

Repealer.

An act in relation to incumbered cities.

Approved March 17, 1881. P. L. 1881, p. 127.

WHEREAS, Some of the cities in this state are incumbered with municipal indebtedness to so great an extent that the annual interest thereon payable by such cities, together with the annual taxable charge upon the taxpayers of such cities, amounts to more than can be readily raised by taxation

Preamble.

therein; *and whereas*, it is expedient that in such cases the governing powers of such cities and their respective municipal creditors should have power to arrange such settlements as shall be for the mutual interests of such cities and their creditors:

When incumbered cities may issue bonds for purpose of arrangement with creditors.

1262. SEC. 1. That whenever any city in this state shall be unable, in the judgment of the city council or other legislative body of such city, to raise and pay the annual charge upon the municipal indebtedness of such city, which judgment shall be expressed by the resolution of such city council or other legislative body, passed by the votes of three-fourths of the members of the same, it shall be lawful for such city council or other legislative body to issue the bonds of such city for such amounts as they may deem expedient, not exceeding the total amount of the indebtedness of such city, which bonds shall be issued by ordinance of such city council or other legislative body thereof, passed by the votes of three-fourths of the members thereof, and shall be applicable for purposes of arrangement of such indebtedness with the creditors of any such city, and for no other purpose, as hereinafter provided.

Bonds, how executed, &c.

1263. SEC. 2. That such bonds shall be executed in the manner provided for the execution of the bonds of such city by any existing law of this state, shall bear such rate of interest not exceeding the legal interest, and be payable at such time or times, and be either registered or coupon bonds, as shall be determined by such city council or other legislative body, by the votes of three-fourths of the members thereof.

Bonds may be exchanged for evidences of indebtedness.

1264. SEC. 3. That it shall be lawful for such city, through the finance department of the same, to exchange such bonds when so issued for any evidences of indebtedness of such city, held by the creditors thereof, with whom such finance department may agree for that purpose, either in whole or in part, upon such terms of exchange as shall be ordered by such city council or other legislative body by a resolution of the same, passed by the votes of three-fourths of the members thereof.

1265. SEC. 4. [Amended by Sec. 1269, *post.*]

Money raised to be invested by sinking fund commissioners.

1266. SEC. 5. That all sums which shall be so raised by any such city for the purpose of application to the payment of the principal of such bonds shall be invested by the sinking fund commissioners or other proper officers for that purpose, and shall not be borrowed by or applied by such city for any purpose except the payment or purchase of such bonds.

City council may make arrangements for settlement of indebtedness.

1267. SEC. 6. That the city council, or other legislative body of such city, by the votes of three-fourths of the members thereof, may arrange with any person or persons for a settlement of such indebtedness, and employ such assistance as they may deem necessary, and provide for their compensation and the necessary expenses attending the same by the issue of bonds under this act, or otherwise, in their discretion.

Repealer.

1268. SEC. 7. 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. 1881, p. 212.

Approved March 24, 1881.

1269. SEC. 1. That the fourth section of the act to which this is a supplement shall be and is hereby amended so as to read as follows:

Annual interest and principal of bonds to be raised by taxation.

[That the annual interest on such bonds as shall be so issued and exchanged shall be raised by taxation by the proper authorities of any such city for that purpose, together with such sum as shall be levied by such city council or other legislative body for application to a sinking fund for the payment of the principal thereof, if any, and such interest and sum for principal if any, shall be raised by taxation and paid by the proper municipal authorities of any such city before the interest on any bonds or other evidences of the indebtedness of such city, in existence at the time of the issue of the bonds authorized by this act, or the principal, or any part thereof, of any indebtedness of such city arising after the execution of the bonds authorized by this act, except such temporary indebtedness

as may be incurred in any one year in anticipation of taxes for the current expenses of the city government for that year; and this supplemental act shall take effect immediately.]

Supplement.

Approved February 14, 1883. P. L. 1883, p. 34.

1270. SEC. 1. That any bonds issued, or to be issued, by authority of any city council or other legislative body of any city of this state, by virtue of the provisions of the act to which this is a supplement, shall be applicable for the payment of assessments imposed upon lands for local improvements by the authorities of such city in all cases where, by any law of this state, the original bonds for which the bonds issued, or to be issued under said act, shall be so applicable. Bonds applicable for payment of assessments for local improvements.

1271. SEC. 2. That in making payment of assessments as aforesaid, the face value of any bond issued, or to be issued under said act, shall be available to pay and discharge assessments to an amount equal to the amount of indebtedness of said city for which said bond was issued and taken, and that each dollar of interest due and unpaid upon any such bond shall be available to pay and discharge assessments in such proportion greater than its equivalent as the rate of interest upon the indebtedness for which said bond was taken is greater than the rate of interest upon said bond, if any Value to be allowed such bonds for such payments.

Supplement.

Passed March 25, 1884. P. L. 1884, p. 92.

1272. SEC. 1. That whenever any city shall commence or shall have commenced the arrangement and settlement of its debt under the provisions of the act to which this is a supplement, it shall be lawful for the common council, city council, or other legislative body of such city, to make a proposition to arrange and settle its debt, and cause the same to be published in at least one daily newspaper in the city of New York for the period of four weeks at least three times a week, and shall also cause such proposition to be published for the same time and in the same manner in a newspaper published in the city whose debt is to be adjusted. Lawful for city to make proposition to settle its debt, and cause same to be published in certain newspapers.

1273. SEC. 2. That the said proposition shall be binding on the city making the same, and on all the creditors thereof who shall signify their assent in writing thereto and file the same with the clerk of the city, and in case any creditor of such city shall neglect or omit to file with the city clerk of such city his or her refusal in writing to concur in said agreement within three months from the date of the first publication thereof, such creditor shall be taken to have agreed to the same, and the city authorities shall, immediately after the expiration of said three months, proceed to carry out the agreement thus made with its concurring creditors under the provisions of the act to which this is a supplement. When proposition shall be binding on city and creditors.

1274. SEC. 3. That any proposition heretofore made and partly executed by any city may be published as herein provided, with the same effect as a new proposition made after the passage of this supplement. Publication and effect of proposition heretofore made.

1275. SEC. 4. That a notice shall be published with the said proposition requesting all creditors of the city to file assents or dissents thereto in writing with the clerk of the city within three months from the date of the first publication of said proposition, which date shall be stated in the notice; and it shall be the duty of the city clerk to make diligent inquiry in good faith for the residences and post-office addresses of all the creditors, and within the period of four weeks aforesaid mail a written or printed copy of said proposition and notice, with postage prepaid, directed to the post-office addresses of all the creditors known to said clerk; and in all cases where creditors agree to accept the proposition, the form of the assent shall be as follows: Notice and proposition to be published and mailed requesting creditors to file assents or dissents thereto, &c.

"The subscriber hereby agrees to accept the proposition of settlement made by ——— and published for the first time on the ——— day of ———;" Form of assent.

And in all cases where creditors are not willing to accept the proposition the form of the dissent shall be as follows:

Form of dissent.

"The subscriber hereby declines to accept the proposition of settlement made by ——— and published for the first time on the ——— of ———;"

All assents and dissents shall be made out upon blank forms to be furnished by the city clerk, and shall be signed in the presence of at least one witness.

An act to secure the payment of the interest and principal of bonds now issued and that may be issued in pursuance of an act entitled "An act in relation to incumbered cities," approved March seventeenth, one thousand eight hundred and eighty-one.

P. L. 1885, p. 75.

Passed March 10, 1885.

Additional tax may be levied to secure payment of bonds.

1276. SEC. 1. That it shall be the duty of the officers, boards or authorities having power, to assess and levy taxes for state and county purposes in any municipality, and they are hereby empowered to levy an additional tax therein for the purpose of securing the payment of the interest as it accrues, and the principal when due, on all bonds now issued and that may be issued by any city within their county, in pursuance of an act entitled "An act in relation to incumbered cities," approved March seventeenth, one thousand eight hundred and eighty-one, but no tax shall be levied in anticipation of the issuing of any such bonds; such additional tax, when levied, shall be collected by the appropriate officers of the municipality, and used and applied exclusively for the purposes aforesaid.

Lawful to appropriate claims for unpaid taxes to payment of bonds, &c.

1277. SEC. 2. That it shall be lawful for the council or other legislative body of any municipality which has issued or shall issue any bonds under the authority of said act of March seventeenth, one thousand eight hundred and eighty-one, to appropriate to their payment by ordinance, which shall have the force of contract, any or all claims or demands due to such municipality for unpaid taxes and assessments and the moneys that may be collected thereon; that after the passage of such ordinance, all moneys collected on account of the taxes and assessments so appropriated shall, as fast as collected, be paid over to a trustee to be appointed by such council or other legislative body, and used by said trustee exclusively, either for the purchase of said bonds, in such manner as may be provided in such ordinance, or for their payment, if payable, either in full or pro rata; and all bonds so purchased or paid in full shall be at once delivered to the municipality and canceled; said ordinance may also provide that the said bonds and accrued interest shall be the only bonds or class of bonds or obligations of the municipality that shall thereafter be received in payment of the taxes and assessments so appropriated to their security and payment; the said council or other legislative body shall have full power to pass, from time to time, such ordinances and enter in such contracts with a trustee or trustees for the benefit of the holders of bonds issued and to be issued under the said act of March seventeenth, one thousand eight hundred and eighty one, as such council or legislative body shall deem necessary or proper to carry out the powers herein granted.

Repealer.

1278. SEC. 3. That all acts and parts of acts, general, local or special, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

10. WARDS AND ALDERMANIC DISTRICTS.

An act regulating the boundary lines of the aldermanic districts in cities of this state.

P. L. 1878, p. 264.

Approved April 3, 1878.

Boundary lines of aldermanic districts to conform to lines of assembly districts.

1279. SEC. 1. That wherever the boundary lines of the aldermanic districts of any city in this state were, prior to the first day of January, eighteen hundred and seventy-eight, laid out similar to the lines of the assembly districts of such city, or parts thereof contained in said city, the

boundary lines of such aldermanic districts shall hereafter conform with and be identically the same as the lines of such assembly districts or parts thereof in any such city. (*a*)

Official representation in such aldermanic districts.

1280. SEC. 2. That whenever any aldermen, commissioners, directors of education, or other public officials of any city in this state have heretofore been elected from aldermanic districts, the boundary lines of which conformed with those of the assembly districts or parts thereof contained in said city, such aldermen, commissioners, directors of education, or other public officials shall hereafter be elected from and represent in their official capacities aldermanic districts, the boundary lines of which shall conform with those of the assembly districts or parts thereof contained in said city; *provided, however*, that the said aldermen, commissioners or directors of education shall continue to represent the district from which they were elected until the expiration of their term of office, notwithstanding any change in the boundary lines of the said districts.

Proviso.

Notice of election and of boundary lines to be given.

1281. SEC. 3. That a notice of election, stating the officers to be elected, describing the boundary lines of the precincts and aldermanic districts from which they are to be chosen, published in the official papers of said city by direction of the board of aldermen of said city, five days prior to any election to be held in such aldermanic districts during the year of our Lord one thousand eight hundred and seventy-eight, shall be considered as good and sufficient notice in lieu of all other notice provided for by the laws of this state, and such action by such board of aldermen shall be valid and effectual without the assent of the mayor of any such city during the year one thousand eight hundred and seventy-eight.

Boards of registry to revise lists of voters.

1282. SEC. 4. That the board or boards of registry in any city affected by the provisions of this act shall revise their lists of voters and take such other action as may be required by law, or as may be directed by the board of aldermen of said city, for the purpose of carrying out the provisions and intent of this act, and such direction shall be conclusive upon such board or boards of registry without the approval of the mayor of any such city during the year one thousand eight hundred and seventy-eight.

An act concerning cities.

Approved March 10, 1880. P. L. 1880, p. 172.

Common council may divide certain cities into two wards.

1283. SEC. 1. That if any city shall have a common council and shall not have been divided into wards, it shall be lawful for the common council of such city, as soon as practicable after the passage of this act, to divide such cities into two wards.

An act relating to the division of certain cities in this state into wards.

Approved March 22, 1881. P. L. 1881, p. 175.

1284. SEC. 1. [Amended by Sec. 1287, *post.*]
1285. SEC. 2. [Amended by Sec. 1288, *post.*]
1286. SEC. 3. [Amended by Sec. 1289, *post.*]

Supplement.

Approved March 8, 1882. P. L. 1882, p. 70.

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Cities, incorporated towns, &c., may be divided into wards.

1287. SEC. 1. That section one of the act to which this is a supplement be amended so as to read as follows:

[That all cities in this state not already divided into wards or districts, and all incorporated towns or municipalities, by whatever name or title said cities, towns or municipalities may be designated, in which more than six hundred votes are polled at any annual election, may be divided into two or more wards.]

1288. SEC. 2. That the second section shall be amended so as to read as follows:

(*a*) *Query*—What is the effect of this section since the decision in *State* v. *Wrightson*, 27 *Vr.* 126, declaring that members of the assembly must be elected by the voters of a county at large, and not by districts in the county?

Cities may be divided into wards.

[That the common council or other governing board or body in any such city, town or municipality, by whatever name or title it may be called, is hereby authorized and empowered to determine the number of wards into which such city, town or other municipality shall be divided, and the boundaries of said wards, and are authorized and empowered to make such division accordingly.]

Supplement.

P. L. 1883, p. 170.

Approved March 23, 1883.

1289. SEC. 1. That section three of the act entitled "An act relating to the division of certain cities in this state into wards," approved March twenty-second, one thousand eight hundred and eighty-one, be amended so as to read as follows:

Representation of wards in governing body.

[That at all charter, borough, municipal or town elections to be held in any such city, borough, town or municipality after a division thereof into wards, as provided for by this act, an equal number of the elective members of the common council or other governing body or board of such city, borough, town or municipality, shall be elected from each of said wards as the representation thereof, and the residue of such elective members of such common council or other governing body or board, if any such there be, shall be elected at large from such city, borough, town or municipality; *provided*, that the largest possible number consistent with the foregoing provisions of this section shall be elected from each of said wards; *provided further*, that where, in any city affected by this act, the mayor, alderman or any other officer of said city is now ex officio a member of the city council, the city council, in apportioning the number of councilmen to each ward, shall not take into consideration such ex officio members; *and further provided*, that where, in any city, borough, town or municipality affected by this act, any officer or officers of such city, borough, town or municipality is or are a member or members of such common council or other governing board or body, whose tenure of office is not elective, such common council or other governing board or body, in apportioning the number of members of the same to each ward, shall not take into consideration such non-elective members.]

Proviso.

Proviso.

Proviso.

To what municipalities act is applicable.

1290. SEC. 2. That the first, second and third sections of this act shall apply to all cities, boroughs, towns and other municipalities, however created or governed, and by whatsoever name or title the same may be called or designated.

Repealer.

1291. 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.

An act concerning divisions of wards in cities of this state.

P. L. 1884, p. 269.

Approved April 25, 1884.

1292. SEC. 1. [Amended by Sec. 1293, *post*.]

Amendatory act.

P. L. 1888, p. 116.

Passed February 29, 1888.

1293. SEC. 1. That section one of an act entitled "An act concerning division of wards in cities of this state," approved April twenty-fifth, one thousand eight hundred and eighty-four, be amended so as to read as follows:

Wards may be divided into two wards.

[That the city council or other legislative body of any city in this state, shall have power to divide one of the wards of said city into two wards, once in five years, by an ordinance to be passed for that purpose, in accordance with the charter of such city, but by a two-thirds vote of the members of said legislative body.] (*a*)

(*a*) The act of which this act is amendatory was further amended by P. L. 1889, p. 443, and this latter amendatory act was repealed by P. L. 1893, p. 395. See *Schermerhorn* v. *Jersey City*, 24 *Vr.* 117.

An act concerning cities containing more than two assembly districts, where all the assembly districts within any such city are completely and exclusively within the limits of such city and embrace no territory outside of such city, and providing for conformity between the lines of wards and assembly districts in such city.

Approved April 18, 1889. P. L. 1889, p. 288.

Certain cities to be divided into wards to correspond with boundaries of assembly districts.

1294. SEC. 1. That in any city of this state which now or hereafter shall contain more than two assembly districts within any such city, which assembly districts are completely and exclusively within the limits of such city and embrace no territory outside of such city, it shall be the duty of the mayor and common council or other municipal board corresponding thereto, and such mayor and common council or other municipal board of every such city are hereby directed by resolution to divide such city into wards corresponding in number and boundaries to such assembly districts exclusively embraced as aforesaid within the limits of such city. (*a*)

When division to be made.

1295. SEC. 2. That such division of such city into wards as provided for in the first section of this act, shall be made on or before the thirtieth day of April in each year, whenever any change of the lines of assembly districts in any such city, shall make it necessary to take the action directed in the first section of this act, so as to establish an exact conformity between the ward lines and the assembly district lines within such city.

After ward lines are changed, no other wards to exist.

1296. SEC. 3. That whenever, under the terms of this act, ward lines are changed as aforesaid in any such city, no other wards shall exist or be in any way recognized therein.

Terms of ward officers not affected.

1297. SEC. 4. That nothing within this act contained shall be so construed as to affect the term of office of any person elected from any ward as existing prior to such change directed by this act; but the terms of office of all such persons shall continue until the expiration of the time for which they were elected, and no longer.

Municipal boards, how constituted.

1298. SEC. 5. That the common council or other municipal board corresponding thereto, and also all other municipal boards, the members of which are elected in wards in any such city, shall thereafter consist of those persons holding over for their elected term or terms, and those thereafter elected from the wards as changed by authority of this act; *provided, however*, that after the expiration of the terms of office of those holding over as aforesaid, such common council or other municipal boards shall consist of those elected from the wards as changed under the authority of this act.

Proviso.

Repealer.

1299. SEC. 6. That all acts and parts of acts, general, public, local or special, inconsistent with this act, be and the same are hereby repealed.

An act to provide for the adjustment, division and creation of wards in certain cities in this state, and for the election of officers therein and in said cities.

Approved February 17, 1891. P. L. 1891, p. 26.

Cities of not more than 50,000 inhabitants may rearrange their wards by a majority vote of the common council.

1300. SEC. 1. That after the passage of this act, any city of not more than fifty thousand inhabitants may by resolution adopted by a majority vote of the common council or other legislative body thereof, at a regular meeting or at a special meeting called for that purpose, so divide, create, re-create or re-adjust the wards thereof, and increase or diminish the number of such wards, once in five years, so that each ward shall contain not more than eight hundred legal voters.

Officers to be elected in such wards.

1301. SEC. 2. That whenever any city council or other legislative body in any city of this state shall divide, create, re-create or re-adjust the wards of such city, or increase or diminish the number of such wards in conformity with the first section of this act, each ward so created, re-created or re-adjusted, shall be entitled to elect to the common council or other legisla-

(*a*) This act was adjudged by the supreme court to be inoperative, for the reason that it is special legislation regulating the internal affairs of cities. *Dempsey* v. *Newark*, 24 *Vr.* 4. See, also, *Wood* v. *Atlantic City*, 27 *Vr.* 232. *State* v. *Wrightson*, 27 *Vr.* 126.

tive body thereof to be elected in such city, one councilman or alderman as the case may be, and no more; and one school commissioner and no more; and such other officers as were theretofore elected from the different wards of such city, whose term of office shall be for the term of two years, except that under the first election held under this act the representatives from the odd-numbered wards shall be elected for one year, and the representatives from the even-numbered wards shall be elected for two years; and thereafter councilmen or aldermen and school commissioners from such wards shall be elected for two years; *provided*, that if at the date of the first election under this act the term of office of any councilman or other person shall not have expired, then in that case such person shall hold his office for the term for which he was elected.

Proviso.

Councilman or alderman-at-large to be elected.

1302. SEC. 3. That in addition to the councilmen or aldermen, as the case may be, and other officers elected under this act, there shall be elected a councilman or alderman-at-large by all the legal voters of such city; which councilman or alderman so elected shall hold his office for two years, and may reside in any ward therein, and such councilman or alderman so elected shall, by virtue of such election, become president of the city council or board of aldermen as the case may be, of the city in which he is thus elected, with all the powers and privileges appertaining to that office, and appertaining to the office of councilman or alderman.

Officers to be elected at first municipal election.

1303. SEC. 4. That whenever the wards of any city shall be divided, created, re-created, adjusted, diminished or increased under the provisions of this act, the councilmen or aldermen and school commissioners and other officers herein mentioned, shall be elected from such newly-divided, created or adjusted wards at the first municipal election held in such city after such division, creation or adjustment shall have been made.

Construction of word "or."

1304. SEC. 5. That the word "or" wherever it occurs in this act, shall be construed to mean "and" whenever it shall be necessary to give effect to the provisions of this act.

An act concerning ward and district lines in the cities of this state.

P. L. 1894, p. 145.

Approved April 25, 1894.

How often wards may be changed.

1305. SEC. 1. That in all cities in this state the common council, board of aldermen, or other governing body thereof, shall have power by resolution adopted by a majority vote of all the members of such body to divide such city up into wards or councilmanic or aldermanic districts, and to change the lines of boundaries of the wards or districts therein, but not oftener than once in ten years hereafter; *provided, however*, that the term of any officer appointed from or elected in said wards or districts shall not be affected by such change; *and provided further*, that the number of wards or aldermanic districts in any such city shall not be increased hereunder.

Proviso.

1306. SEC. 2. [Amended by Sec. 1307, *post.*]

Amendatory act.

P. L. 1894, p. 417.

Approved May 17, 1894.

Repealer.

1307. SEC. 1. That section two of the act to which this is a supplement be amended so as to read as follows:

[That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.] (*a*)

An act concerning wards and district lines in cities of this state, and for the formation of new wards.

P. L. 1895, p. 311.

Approved March 14, 1895.

Power to divide city into wards and to increase the number thereof.

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1308. SEC. 1. That the common council, board of aldermen or other legislative body of any city of this state shall have power by ordinance to divide said city up into wards and to change the lines and boundaries of the present wards and aldermanic districts therein, and to increase the

(*a*) See *McLaughlin* v. *Newark*, 28 *Vr.* 299.

number of wards therein; *provided*, that the number of wards shall not exceed sixteen in any city; *and provided further*, that a majority of all the members of said legislative body shall agree to the passage of said ordinance, and the same shall be approved by the mayor of said city. Proviso. Proviso.

1309. SEC. 2. That all officers elected or appointed for existing wards or aldermanic districts in any city wherein the ward or aldermanic district lines are changed, and new wards created, as herein provided, shall continue in office until their respective terms of office shall have expired, and until others are duly appointed or elected to take their places, and that hereafter such number of officers shall be elected or appointed from the new wards as may be elected, or appointed, from the wards now existing; and vacancies therein may be filled in the manner now provided by law for filling vacancies. Incumbents shall continue in office till others are appointed or elected.

1310. SEC. 3. That when new wards are created in any city, as herein provided, it shall be the duty of the common council or board of aldermen of such city to divide the new wards into election districts or precincts, which said precincts, so far as practicable, shall be so constituted as not to contain over six hundred voters. New wards shall be divided into election districts.

1311. SEC. 4. That the term wards, as used in this act, shall include all divisions of cities known as aldermanic districts, and that hereafter all such aldermanic districts, shall be known and designated as wards. The term "ward" defined.

1312. SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act be and same are hereby repealed. Repealer.

11. GENERAL GOVERNMENT OF CITIES.

An act concerning the government of cities of this state.

Approved April 6, 1889. P. L. 1889, p. 187.

1313. SEC. 1. That in the cities in this state the mayors thereof respectively shall appoint all city comptrollers, city treasurers and city collectors in lieu of, and to be substituted for, and to act in place of, and who shall in each case respectively be invested with and shall perform all the powers and duties of any such officers, by whatsoever title they may be designated, now authorized by law to act therein; and that each of said officers so appointed by the mayors shall receive a salary of three thousand dollars per annum, and that their terms of service shall be two years in each case; and the terms of the first officers appointed hereunder shall date from the date of their appointment under this act; and that such officers shall give bonds for the faithful discharge of their duties in such amounts as may be fixed by the board of finance in and for any city, and which bonds shall be approved as to sufficiency by said board; and that the term of service of every such officer named herein now holding office in any such city shall end on the appointment and qualification of his successor as herein authorized; and every such officer shall immediately deliver up his office and all books and papers, matters and things whatsoever connected therewith to his said successor; any vacancy in either of the offices herein provided for shall be filled in the same manner, but for the unexpired term only; each of the officers named in this section shall have power to employ a deputy, which deputies shall assist said officers in the discharge of their several duties, and act in their stead during absence or disability; and all such officers and deputies shall be sworn in as such officers are now sworn in, in each of said cities; and every such deputy shall give bonds in such amount as the board of finance shall fix, to be approved in the same manner; said deputies shall each receive a salary of fifteen hundred dollars per annum, and shall serve during the pleasure of the appointing power; such other clerks and messengers may be employed from time to time by the chief officers herein named as may be necessary or convenient for the proper transaction of the public business, with the consent of the board of finance of the city, as in this act authorized; the appointing power to fix their compensation, not to exceed in any case one hundred dollars per month; proper and convenient offices shall be provided in each case, and Appointment and salaries of sundry city officers. Vacancies, how filled. Officers to employ deputies. Deputies to give bond, &c. Clerks and assistants.

the necessary supplies furnished at public expense, and the amounts thereof provided for in the annual tax levies of every city. (a)

Board of tax commissioners, appointment, term of office, salary, &c.

1314. SEC. 2. That in lieu of the method of appointing or electing assessors or tax commissioners in any city, there shall be appointed by the mayor thereof a board of three tax commissioners, whose terms of service shall be three years; they shall meet as soon as convenient after their appointment and organize by choosing one of their number to be president to serve for the ensuing year, and shall [so] choose a president each year thereafter; the board shall appoint a clerk, to serve during the pleasure of the board, to be paid a salary at the rate of fifteen hundred dollars per annum, and the members of the board shall each receive twenty-five hundred dollars per annum as compensation; the first appointments of tax commissioners hereunder shall be one for one year, one for two years and one for three years from the date of their appointment hereunder, and thereafter one each year in place of the one whose term expires, so that the terms of all, after the first appointments, shall be three years.

Board to establish rules, regulations, &c.

1315. SEC. 3. That the several boards of tax commissioners herein provided for, may establish rules and regulations for the transaction of their business, not inconsistent with any ordinance of the city in which they are appointed, nor with any law of this state; the assessment-books shall be open to the inspection of any taxpayer during all business days, between ten o'clock in the forenoon and three o'clock in the afternoon; the acts of two members at any meetings of the boards shall be the acts of the boards respectively; the boards of tax commissioners and the tax commissioners provided for in this act shall be substituted for, and shall become possessed of and invested with all of the powers, and shall perform all of the duties now provided by law for any assessors or board of assessors, or tax commissioners or board of tax commissioners, in any city in this state, and in addition thereto they shall be the commissioners of appeal in cases of taxation for the cities in which they are appointed; separate assessment-books shall be made out each year for every ward or district as now required by law, if any such requirement exists, for each or any of said cities; and when said books have been approved and accepted at a meeting of the board of finance, herein provided for in any city, the amounts therein assessed against or upon each piece or parcel of land or property shall become a lien upon the same according to law, to be collected and dealt with as now required by the law in that respect governing such city, or by any law of the state applicable thereto.

Powers of.

May employ assistants, &c.

1316. SEC. 4. That the several boards of tax commissioners herein authorized may employ such assistants, clerks or servants as may from time to time be needed for the proper and convenient transactions of the public business and the proper discharge of the duties imposed upon them by law, and fix their compensation, but no such compensation shall in any case exceed one hundred dollars per month; the number and compensation of such assistants, clerks and servants to be fixed by the board of finance; offices and supplies shall be furnished for every such board at public expense, and the cost thereof provided for in the annual tax levy of every such city; the tax commissioners provided for herein shall each give bonds in ten thousand dollars for the faithful discharge of their duties, to be approved by the board of finance in every such city.

Certain offices to cease upon appointment of successors.

1317. SEC. 5. That the office of assessor or tax commissioner, or commissioner of appeals in cases of taxation, now existing in any city in this state, shall cease and end upon the appointment and qualification of their successors as herein provided, and all books and papers, matters and things connected with either of said offices shall be delivered up to the boards of tax commissioners herein authorized, respectively.

Law officers, duties, terms and salaries.

1318. SEC. 6. That in every city in this state the mayor thereof shall appoint a corporation counsel and a corporation attorney, to be paid such salaries respectively as are now provided by law for similar officers in the city for which they are appointed, who shall hold office for two years, and

(a) This act declared to be constitutional. *In re Petition of Cleveland, Mayor*, 23 *Vr.* 188.

discharge the duties that now devolve upon similar officers and offices in each of such cities respectively, under such requirements and regulations as are now provided by law, and in addition thereto such duties as are herein provided; and the offices of corporation counsel, and of corporation attorney in any city now existing, shall become vacant on the appointment of their successors as provided herein, and said offices shall be filled by their successors so appointed; any vacancy shall be filled in the same manner, but for the unexpired term only.

Street water commissioners, appointment and terms.

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1319. SEC. 7. That it shall be lawful for the mayor of any city in this state to appoint three suitable persons, to be known as street and water commissioners, one for the term of one year, one for the term of two years and one for the term of three years, from the date of their appointment hereunder, and at the expiration of the term of service of each of said commissioners another shall be appointed in his place in the same manner for three years, so that the term of service of all such commissioners under this act thereafter appointed shall be three years, and they shall be the board of street and water commissioners of the city in and for which they are appointed; they shall qualify as other officers of like character qualify in any such city, and shall give bonds in the sum of twenty-five thousand dollars each, to be approved as to sufficiency by the board of finance in and for the city in which they are appointed, for the faithful discharge of their duties; the commissioners first appointed hereunder shall meet as a board as soon as practicable thereafter, and shall select one of their number to act as president for the ensuing year, and thereafter they shall so select a president each year; the said board of street and water commissioners shall have power to employ or appoint from time to time such engineers, surveyors, clerks and other persons to aid them in the execution of this act as they may deem necessary or as may be authorized or required by law for any such city, and to fix their compensation; the acts of two members shall be the acts of the board, and any vacancy shall be filled by the mayor for the unexpired term only; no more than two members shall be appointed from the same political party.

To give bond, &c.

May employ engineers, &c.

Powers and duties of street and water commissioners.

1320. SEC. 8. That the board of street and water commissioners herein provided for, in any city, shall be substituted for and shall become vested with and shall perform all the powers and duties of any street commissioners or board of public works, or any board or authority now having power to lay out, open, grade, alter, vacate or change the lines of streets, or to pave, repair or clean streets and sewers, or to make street or sewer improvements and constructions, or having charge, control, operation, management, maintenance and construction of water works and the water-supply, and the distribution, sale and use of water, and the control and management and use of all public docks, wharves and bulkheads, and the erection of and repair of public buildings, and the purchase of the lands and real estate therefor, in any city, and the office of street commissioner or commissioner of public works, in any city, is hereby abolished from the time the first street and water commissioners appointed under this act are qualified; and all books and papers, property and effects, matters and things whatsoever now used by or heretofore in charge of any such officer, or any board or body, and used for any purpose whatever in the exercise of the powers and duties by this act conferred upon the board of street and water commissioners herein provided for and authorized, shall at once be delivered to said board of street and water commissioners, or to the person or persons designated by said board to receive the same in any such city.

Power to repave and improve streets, &c.

1321. SEC. 9. That the board of street and water commissioners herein authorized shall have power, in their discretion, to repave and improve, according to specifications adopted by said board for material for any such repaving, and for work in each case, any part of any street, lane, alley, avenue or public place already paved in any city, a part of the expense to be assessed on the property benefited in proportion to benefit received, but in no case for more than one-third of the cost thereof, and in no case beyond the benefit received; *provided*, the owners, or their legal representatives, owning or representing a majority of the lineal feet of frontage

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of any such street, lane, alley, avenue or public place, or part thereof, shall petition said board to have the same so repaved and improved, and said board shall have power to proceed and do such repaving and improving without such petition, by a unanimous vote of the board, proceeding in all things as now required by law for like street improvements in any such city, except as herein otherwise provided.

Power to change and establish grades of streets, &c.

1322. SEC. 10. That the said board of street and water commissioners shall have power, in addition to all other powers granted by law, in their discretion, to change the grade and so establish a new grade for any part of any street that is to be repaved or repaired as in this act authorized; and the cost of all such excavating or grading down, or of the filling in to bring the street or part thereof up to the new grade so established, shall be borne by the city at large; said board shall have power to adopt maps, grades and specifications for curbs along any such streets and for sidewalks, and may supply, set and reset such curbs, and supply, grade and lay and relay the sidewalks wherever needed to make them conform to the grade or specifications adopted for curbs or sidewalks in any such street, and to the new grade established for any such street, or curbs, or sidewalks, if any have been so adopted or established; and the cost of all such improvements for curbs or sidewalks, and laying, setting and relaying or resetting, as the case may be, shall be assessed upon the property benefited, and upon each piece or parcel of land, in proportion to benefit received; but if the cost shall be more than the benefit received, then the excess of cost over benefit shall be borne by the city at large; and all assessments for improvements authorized by this act shall be made, levied and collected in form and manner, as other assessments for similar improvements are made, levied and collected in any such city, and with the same penalties for non-payment, including the right on the part of the city to sell the property for such non-payment; and said board shall have the power to require any property-owner or property-owners to alter, repair, lay or relay, set or reset, with curbstones or flagstones, or other material, and to supply and lay or set new curb or sidewalk, all in accordance with the specifications adopted for any such curb or sidewalk in front of the property of any such owner or owners; and if any such property-owner or owners shall neglect or refuse to make the repairs required by the board of street and water commissioners, as herein authorized, for four weeks after notice shall have been served upon such owner or owners, or mailed to the last-known post-office address of such owner or owners, or of their known agents in charge of such property, then the board may make such repairs and assess the expense thereof upon such property, to be collected as other assessments are collected in any such city, and with the same penalties for non-payment as are authorized by law for any such city in cases of street or sewer improvements and assessments therefor, including the power to sell the property for non-payment.

Cost of improvements, how assessed, &c.

May require property-owners to alter, repair, &c.

Board empowered to improve streets &c., at public expense.

1323. SEC. 11. That the board of street and water commissioners herein provided for shall have power, in their discretion, to repave, repair or improve, at public expense, any part of any street, lane, alley, avenue or public place already paved or that has been paved, to be paid for out of the funds raised by the issue of licenses for the sale of spirituous or malt liquors, as hereinafter provided, if any such licenses are granted in any such city.

Expenses for improvements to be paid out of license fees received.

1324. SEC. 12. That the moneys necessary to pay the expense, or that portion of the expense that is by this act to be paid by any city for repaving, repairing or improving streets, lanes, alleys, avenues or public places, or parts thereof that have before been paved, shall be raised and furnished by license fees for the sale of spirituous or malt liquors as provided by law, or as may be provided by or for any city; and one-half of the fees so received for such licenses, if any are granted, in such city for and during three years next after the passage of this act, shall be kept as a separate fund, and shall be disbursed exclusively by the board of street and water commissioners herein provided for, in the repaving, repairing and improving of streets, avenues and public places as hereinbefore provided, and for

License fees to be kept as a separate fund.

no other purpose; and in case no such licenses are granted or fees received, then no such expense shall be incurred under this act.

Contractors for improvements to give bonds.

1325. SEC. 13. That whenever in any city the board of street and water commissioners provided for in this act shall make any contract for opening, grading, improving, paving or repaving any street, or the construction or repair of any sewer, for the faithful execution of which the contractor shall give bonds, said bonds shall first be approved as to sufficiency by the board of finance provided in this act, and no contract shall be binding upon the city or become effective or operative until said bonds are so approved by said board, and no such contractor shall commence any such work or incur any expense whatever to be paid by the city, or by assessment upon property, as the case may be, until the board of finance aforesaid has approved of the bonds proposed to be given as aforesaid; the president of said board of finance shall have power to examine the proposed bondsmen under oath, if he shall so desire or shall be so instructed by the board; but the board shall not be bound by any statement that may be made by any such proposed bondsmen, but shall have absolute discretion in the whole matter; this provision shall be referred to in any advertisement inviting bids for any such public work.

No contract binding until bonds approved.

Power of president of board of finance.

Salaries of board.

1326. SEC. 14. That the street and water commissioners herein provided for shall be paid two thousand dollars each per annum, as compensation for their services.

Power and duties vested in board.

1327. SEC. 15. That every power and duty of every kind in relation to the subject-matters contained in sections seven to twelve hereof, inclusive, now existing in any officer or officers, or board, or authority, in any city, shall be performed by the board of street and water commissioners in this act provided for; and such board, in the exercise of such powers and duties, shall be substituted for any board or authority, or officer or officers, now performing or exercising any such powers and duties, and the powers and duties aforesaid of the latter shall cease as herein provided.

Board of finance, appointment, term and salary.

1328. SEC. 16. That in every city in this state there shall be a board of finance, to be composed of the president of the board of aldermen or common council, and of four suitable persons to be appointed by the mayor; no more than three of the members of said board shall be from the same political party; the term of service of those so appointed by the mayor shall be two years; and the first appointments shall be two for one year and two for two years, and thereafter those appointed to take the place of those whose terms expire shall be appointed for two years; the term of service of those first appointed shall date from the date of their appointment under this act; and the members of said board shall be paid five hundred dollars per annum each as compensation; and the said board shall be in place of, and be substituted for, and shall be invested with, and shall perform all the powers and duties of any board of finance and taxation now exercised by the latter board in any city in virtue of any law of this state, except as in this act otherwise provided; and the said board of finance herein provided shall also be invested with and shall perform all the powers and duties now exercised by any finance committee of any board of aldermen or common council, or by any board of aldermen or common council, in any city, in virtue of any law of this state in regard to the control and management of the finances of any city, or the levying of taxes, and fixing the annual tax or tax levy, or tax ordinance, of any city; the intention of this provision being that there shall be a board of finance constituted as herein provided, uniform in every city, to take the place of any and every other board or authority in every city in the control, care and general management of the finances thereof, except as otherwise in this act provided; and that such board of finance in every city shall have the sole power to borrow money, issue bonds, provide for the payment of the interest and principal thereof, and to do and perform every power and duty heretofore performed by any other board or authority in regard to the raising of money or any other of the financial affairs of any city, except as in this act otherwise provided; and any board of finance and taxation now existing in any city shall be and is hereby abolished from the time the first board of finance

Powers vested.

General powers and duties.

herein provided and authorized shall be organized for the discharge of their duties, and shall deliver up to said board of finance organized in any city as herein authorized, all books and papers, matters and things in their possession or used by them in the discharge of their duties in the care and management of the financial affairs of any city; said boards of finance herein authorized shall each meet as soon as convenient after their appointment, and select one of their number to act as president for the ensuing year, and thereafter shall so select one of their number to act as president each year, and shall have power to appoint a clerk and fix his compensation.

Commissioners of sinking fund, appointment and term of office.

1329. SEC. 17. That the commissioners of every sinking fund established by law in and for any city in this state shall be three suitable persons, to be appointed by the mayor thereof for a term of three years; the first appointments shall be one for one year, one for two years, and one for three years, from the date of their appointments, and thereafter one each year for three years in place of the one whose term then expires; any vacancy to be filled by the mayor for the unexpired term only; the sinking fund commission herein authorized shall be in place of and be substituted for and shall be invested with all the powers and duties of any commissioners of any sinking fund now established or authorized by law in and for any city, and the term of service of any such commissioner or commissioners serving in any city at the time this act goes into effect shall cease on the appointment of the sinking fund commission as herein authorized.

Moneys needed to be raised by annual tax.

1330. SEC. 18. That all moneys needed for the purposes and proper execution of this act shall be raised by annual tax upon the real and personal property, as other taxes are raised in and for any city, but the money so needed for the execution of this act during the first year or part of a year not herein provided for, nor provided for in the current annual tax levy or tax ordinance of any city, shall be borrowed by temporary loans, and the amounts so needed and borrowed shall be provided for in the next annual tax levy of any city in which the deficiency may occur.

Veto power of the mayor.

1331. SEC. 19. That the mayor of any city shall have the right to veto the acts of any board provided for in this act, or any other board in any such city, and copies of all resolutions or other matters duly certified shall be furnished to the mayor of every such city, and he shall have ten days in which to consider them in each case before signing or returning them to the boards respectively with his objections; the mayor shall have the power to veto any item or items contained in any ordinance or resolution appropriating money for any purpose, and to approve of the residue of such ordinance or resolution; any board may pass any resolution or other matter, notwithstanding the objections of the mayor, by a vote of two-thirds of all the members thereof.

Acting mayor not to appoint any city officers.

1332. SEC. 20. That no appointment authorized by law to be made by the mayor of any such city to which this act shall apply, or with his consent, shall be made or consented to by any officer acting in the absence or disability of the mayor.

Police commissioners, appointment, term of and salaries.

1333. SEC. 21. That the police department in every city shall be reorganized, governed and managed by a board of three police commissioners, who shall be appointed by the mayor thereof for three years; the first appointments shall be one for one year, one for two years and one for three years, and thereafter one each year for three years, to succeed the one whose term then expires, so that the term of service for all such police commissioners, after the first appointment, shall be three years; they shall receive one thousand dollars each per annum as compensation for their services, and shall be sworn as other officers are sworn in any such city; the acts of two members of the board shall be the acts of the board; no more than two members shall be appointed from the same political party; the board of police commissioners, and the police commissioners authorized and appointed under this act, shall be in place of and substituted for, and shall become invested with, and shall perform all the powers and duties of, any board of police commissioners or any police commissioners

Certain powers vested.

holding office in any city at the time this act goes into effect, and the terms of service of all police commissioners then so holding office in any city shall cease and end on the appointment and qualification of the police commissioners appointed by the mayor of any city as authorized and provided by this act; the police commissioners provided for and authorized by this act shall have power, in addition to all other powers herein granted, to re-organize, in whole or in part, the police department of any such city by the appointment from time to time, in their discretion, of all such numbers of officers and men or clerks or other persons as are now authorized by law for the police department, or in any capacity whatever connected therewith, or heretofore appointed by the police commissioners of any city, to take the place of and act instead of and to be substituted for any and all such officers and patrolmen or other persons as are now serving in any capacity in or connected with any such department, but shall not increase the number of members of the force beyond the number authorized by law in any such city, nor the pay of such members beyond the pay so authorized, except in the case of the police surgeon, whose salary the board may fix; *provided*, that nothing in this act contained shall be construed to repeal or violate any law now existing in regard to the dismissal of any person from the police department.

General powers.

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1334. SEC. 22. That the fire department in every city in this state shall be re-organized, governed and managed by a board of three fire commissioners, who shall be appointed by the mayor thereof for three years; the first appointments shall be one for one year, one for two years and one for three years, and thereafter one each year for three years, to succeed the one whose term then expires, so that the term of service for all such fire commissioners after the first appointments hereunder shall be three years; they shall receive one thousand dollars per annum each, as compensation for their services, and shall be sworn as other officers are sworn in any such city; the acts of two members shall be the acts of the board; no more than two members shall be appointed from the same political party; the board of fire commissioners and the fire commissioners authorized and appointed under this act, shall be in place of and substituted for, and shall become invested with, and shall perform all the powers and duties of any board of fire commissioners or any fire commissioners holding office in any city at the time this act goes into effect, and the terms of service of all such fire commissioners then holding office in any city shall cease and end on the appointment and qualification of the fire commissioners appointed by any mayor as authorized and provided by this act; the fire commissioners so provided for and authorized by this act for any city shall have power, in addition to all other powers herein granted, to re-organize, in whole or in part, the fire department of any such city by the appointment from time to time, in their discretion, of all such clerks, engineers, assistant engineers, officers and men as are now authorized by law for the fire department of any such city; if any law exists authorizing and restricting the number of men or officers in any such department, and the new officers and men so appointed shall receive the compensation provided by law, if any such law exists; *provided*, that nothing in this act contained shall be so construed as to repeal or violate any law now existing in regard to the dismissal of any person from the fire department of any city.

Fire commissioners, appointment, term and salary.

Certain powers vested.

General powers.

1335. SEC. 23. That in every city there shall be elected an officer to be known as president of the board of aldermen therein, who shall be the president of and shall so act at the meetings of the principal legislative body of such city, whether the same shall be called the board of aldermen or the common council thereof; but such boards shall have power to designate one of their number to act in case of the absence or disability of the president; said president shall serve two years, and shall be elected at the first municipal election after the passage of this act, and thereafter one shall be so elected every two years, and in addition he shall have all the powers of an alderman of the city in which he is elected; *provided, however*, that the first president of the board of aldermen shall be elected at the election

President of board of aldermen to be elected.

Term of.

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to be held in any such city under section thirty-three of this act for the acceptance or rejection of this act; and in case this act shall be accepted in any city at any such election, then the president of the board of aldermen so elected shall hold office therein for the term of two years, calculating said term from the time in that year when the term of the members of the board of aldermen elected in that year for regular terms in such city shall begin; and in case the voters of such city shall decide at any such election to reject the provisions of this act in the manner prescribed in section thirty-four of this act, then the election of a president of the board of aldermen held therein at such election shall be void.

Overseer of the poor, appointment, term of office and salary.

1336. SEC. 24. That in every city the mayor thereof shall appoint all overseers of the poor authorized by law for any such city; the term of service of overseers of the poor shall be three years and they shall receive a salary of fifteen hundred dollars each; the term of the first appointment hereunder shall date from the date of his appointment hereunder, and thereafter an overseer of the poor shall be so appointed every three years in place of the one whose term then expires.

Board of finance to make rules and regulations for the collection of water rents.

1337. SEC. 25. That in every city to which this act shall apply the city collector thereof shall also collect all moneys due the city for the sale or use of water or water rents, or for any purpose whatever in the water department, and the board of finance in this act provided for shall make proper rules and regulations for the carrying out of this provision and the keeping of suitable books and accounts by and between said collector and the water department, and such rules and regulations shall be executed and performed as a part of the regular duties of the water registrar or other person or persons in the water department of every city, and of the city collector thereof, and said collector shall report all cases of non-payment or arrearages to said board of finance, under such regulations as may be ordered and fixed by said board, to the end that said board may order and enforce all penalties and means of collection now authorized by any law for the water department of any city, and said board of finance is hereby authorized to apply and enforce any such penalties and means of collection in every case; the water department or water registrar in any such city shall cease to collect or receive any moneys whatever from the time the board of finance, created by this act for any city, shall have made the arrangements authorized and required by this section for the collection of such moneys by the city collector as herein provided; and the clerk of said board of finance shall give notice to the water department or water registrar of the day fixed by said board for the change in the method of collection herein authorized, and the water department or the registrar thereof shall not receive moneys for the sale or use of water or for the water department of any such city after said day so fixed, the intention of this section being that the payment of moneys for taxes and water rents shall be all made at one place to the city collector, under regulations to be fixed by the board of finance of any city, as herein authorized.

Moneys received for permits or penalties to be paid into city treasury.

1338. SEC. 26. That all moneys for permits or penalties in any department of the city government in any city, and not otherwise in this act provided for, shall be paid direct into the treasury of such city, under such rules and regulations as may be prescribed by the board of finance in any city.

Persons aggrieved may appeal to board of street and water commissioners.

1339. SEC. 27. That in any city any person deeming himself or herself improperly or unfairly assessed in the water department thereof, or for the use of water, shall have the right of appeal to the board of street and water commissioners in this act provided for; and said board shall consider the same, and shall make such order as to said board shall seem just and proper in each case; and, after such consideration, the amount declared by said board to be the proper amount due in every such case, shall be the amount to be paid and collected; but said board shall have power in every case to adjust all assessments in the water department for the sale or use of water, by increasing or diminishing them, and each of them, as may be deemed to be just and proper; but no clerk or other person shall change the amount to be

paid by any consumer or purchaser of water, after the same has been fixed and entered in the proper books by the water assessor or other person authorized by said board of street and water commissioners, without the authority of said board duly given; any adjustment so made, on appeal or otherwise, shall be duly entered upon the books of the water and collection departments under rules and regulations to be prescribed by the board of finance created by this act for every city.

1340. SEC. 28. That in case, for any reason, any section or provision of this act shall be questioned in any court, or shall be held to be unconstitutional or invalid, the same shall not affect any other section or provision of this act.

If section or provisions of act held invalid, not to affect other sections, &c.

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1341. SEC. 29. That one-quarter of all moneys received for licenses granted after the passage of this act, for the sale of liquors, by any city, shall be kept apart, and shall be expended for the construction and furnishing of buildings for the public school department of such city, and for no other purpose.

Money received for license fees, how expended.

1342. SEC. 30. That the salary account for any department of the government of any city shall not exceed the amount fixed in the tax levy for that department for any year.

Salary account not to exceed amount in tax levy.

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1343. SEC. 31. That all persons whose appointment is provided for in section one of this act, and all members of the board of street and water commissioners, and of the board of tax commissioners, and of the board of fire commissioners, and of the board of police commissioners, and of the board of sinking fund commissioners, of any city, may be removed by the mayor thereof for cause, and after opportunity to be heard, subject, however, before such removal shall take effect, to the approval of the governor expressed in writing; the mayor shall, in all cases, communicate to the governor, in writing, his reasons for the removal; whenever a removal is so effected the mayor shall, upon the demand of the officer removed, make, in writing, a public statement of the reasons therefor; no officer so removed shall be again appointed to the same office during the same term of office.

Officers may be removed for cause.

1344. SEC. 32. That no suit or proceedings by or against the city, and no proceeding or application for any public improvement, shall abate or be discontinued by reason of any provision in this act contained, but shall proceed with proper amendments.

Suits or proceedings not abated.

1345. SEC. 33. That the board of aldermen or common council of any city may by resolution, or the mayor of any city may by proclamation, submit the question of the acceptance or rejection of this act to the voters of such city at any general or charter election to be held therein, whereof at least two days' notice shall be given, by public advertisement, in two daily newspapers circulating in such city, and if a majority of those who shall vote for the acceptance or rejection thereof shall be in favor of the acceptance of this act, then this act shall go into effect immediately, and the grant of power herein made to any such city shall be deemed to be accepted by such city, and such city shall be bound by the terms of this act; persons entitled to vote at any charter or municipal election, where this question is submitted to them, shall express their assent or rejection of this act by depositing their ballots in the box provided for depositing ballots at such election in the election precincts or wards of any such city, and those who are in favor of the acceptance of this act, and the grants and powers therein contained, shall each deposit a ballot containing the words "new charter of 1889 accepted" written or printed thereon, and those who are opposed shall each deposit a ballot with the words "new charter of 1889 rejected" written or printed thereon; and this acceptance or rejection may be expressed upon the ballot on which are the names of the state, city, district or ward officers, and no separate ballot shall be required for the purpose of this vote; there shall be a canvass on the return of the votes upon this question of such acceptance or rejection, made by the election officers in the same way and manner as for officers voted for at such election, and if a majority of the ballots on which there shall be either the

Board of aldermen may submit acceptance or rejection of act to voters.

Form of ballot.

Canvass of election.

words "new charter of 1889 accepted," or "new charter of 1889 rejected," shall be found to be for the acceptance of this act, it shall then, but not otherwise, go into effect and be binding upon such city wherein such vote shall have been taken; *provided*, *however*, that no election shall be held under the provisions of this act after the first day of October, eighteen hundred and ninety. (*a*)

Proviso.

Repealer.

1346. SEC. 34. 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.

Supplement.

P. L. 1889, p. 297.

Approved April 18, 1889.

Proclamation heretofore issued legalized.

1347. SEC. 1. That wherever the proclamation submitting the question of the acceptance or rejection of the act to which this is a supplement shall have heretofore been or shall hereafter be issued by the president of the board of aldermen or other governing body of such city, acting as mayor of such city, such proclamation shall be of like force and effect as if the same had been issued and signed by the mayor of such city.

Supplement.

P. L. 1889, p. 319.

Approved April 19, 1889.

Special term of supreme court may be called to try title to office.

1348. SEC. 1. That whenever there shall be instituted or commenced any action or proceeding, at law or otherwise, to try or determine or affect the title to office or the powers, privileges, or rights of any person appointed under the provisions of the act to which this is a supplement, or to try or determine or otherwise affect the duties, rights, powers or privileges, under said act, of the mayor of any city in this state, or where any dispute or controversy shall arise concerning the rights or title of any person appointed to an office under the provisions of said act, the chief justice of the supreme court shall, upon application being made to him for that purpose by any mayor, appoint a special term of said supreme court, to be held within thirty days of such application, for the hearing and determining of such action or proceeding or dispute or controversy, and such action or proceeding or dispute or controversy shall be heard and determined at such special term; the fact that any such dispute or controversy exists may be brought to the attention of the chief justice by the petition or complaint of any such mayor.

Chief justice to prescribe manner of proceeding.

1349. SEC. 2. That the chief justice of the supreme court, upon application being made to him for the appointment of a special term as aforesaid, shall fix the time within which the questions to be decided shall be prepared for submission to said special term, and shall make such orders as may be necessary to bring into court all persons claiming any right, title or interest to or in any office mentioned in the act to which this is a supplement; all proceedings under this supplement shall be had in a summary manner, in order that the issues involved shall be determined as early as possible, and all pleadings or papers shall be filed within such time as the chief justice shall prescribe; upon application being made for the appointment of a special term as aforesaid, the chief justice shall direct that any person claiming the right to hold, otherwise than by virtue of an appointment by the mayor of such city, any office which, by the terms of the act to which this is a supplement, is directed to be filled by appointment by the mayor of such city, shall be made a party to the action or proceeding in which such application is made, and the right of such person to such office shall be tried and determined at such special term; at the time of the appointment of such special term, the chief justice shall direct that any person claiming

(*a*) *Held*, that in case the mayor was absent, and the charter, in such contingency vested the powers of the mayoralty in a specified officer, such officer could proclaim the election. *In re Petition of Cleveland, Mayor*, 23 *Vr.* 188 A misrecital of some of the provisions of the act in the proclamation of an election, held not devoid of legal effect, the act not requiring their insertion in the proclamation, and there being nothing to show that the error affected the result of the election. *Ib.*

to hold any office in any such city, affected by the act to which this is a supplement, otherwise than by the appointment of the mayor as aforesaid, shall file in such action or proceeding a paper or pleading, setting out his claim of title or right to office, and the court shall determine, at such special term, whether any such person is entitled to hold the office which he claims; the chief justice shall prescribe the manner in which any person or persons may be made parties to any such action or proceeding, and direct the manner and time of service of all rules or orders, or other papers, which service may be by publication or otherwise; upon application being made to him as aforesaid, the chief justice shall make such orders as he may deem proper, concerning the taking of testimony, and shall make such further orders or rules concerning such action or proceeding, the papers and pleadings therein and the conduct thereof, as shall be necessary to have the same heard and determined at the special term of the supreme court appointed as aforesaid.

Chief justice to determine and direct who shall discharge duties of office pending trial.

1350. SEC. 3. That upon application being made to him for the appointment of a special term as aforesaid, the chief justice shall summarily determine and direct, by an order to be entered for that purpose, which of the persons claiming such office shall discharge the duties of the offices affected by the act to which this is a supplement, during the pendency of any action or proceeding commenced as aforesaid. (*a*)

To what cities act not applicable.

1351. SEC. 4. That the provisions of this act shall apply to any city in this state which has heretofore or shall hereafter adopt the provisions of the act to which this act is a supplement.

Repealer.

1352. SEC. 5. That this act shall take effect immediately, and that all acts or parts of acts inconsistent with the provisions hereof be and the same are hereby repealed.

Supplement.

Approved June 19, 1890. P. L. 1890, p. 478.

Governing body may grant the right to have covered platforms on sidewalks.

1353. SEC. 1. That whenever any common council or other governing body of any city which shall accept or shall have already accepted the provisions of the act to which this is a supplement, shall hereafter or shall have heretofore granted to any person or corporation the right to have a covered platform on the sidewalk of any road or street, that it shall be lawful for such person or corporation to have such platform and use the same; *provided*, the said person or corporation owns all the property where said platform is located, and the same is to be used only for trucks and vehicles to unload thereon or load therefrom, and said sidewalk has not been flagged, but such permission to be revocable at any time by said common council or other municipal body.

Proviso.

An act relating to and regulating the government of cities.

Approved April 24, 1894. P. L. 1894, p. 75.

Mayor's term of office.

1354. SEC. 1. That the term of office of any mayor hereafter elected in any city of this state shall be two years, notwithstanding any clause in the charter of any city limiting the term for a period less than two years, and that his term of office shall commence on the third Tuesday in March next ensuing said election.

His election, powers and salary.

1355. SEC. 2. That the mayor shall be the chief executive officer of such city, and shall possess the powers and privileges and shall perform the duties which are hereinafter specified, and shall be elected for the term of two years at the annual charter election on the second Tuesday in March, and shall receive such annual compensation for his services not exceeding two thousand five hundred dollars per annum, as the common council shall by ordinance fix and determine, and he shall receive no fees or other compensation whatever.

(*a*) The function assigned to the chief justice by this section is a judicial one, but such power cannot be vested in him, as the jurisdiction touching the right to public office is lodged in the supreme court and cannot be legislatively alienated; and even if the power in question were regarded as executive, it could not be imparted to a judicial officer under the constitution of this state. *In re Application of Cleveland Mayor*, 22 *Vr.* 311.

Shall be head of police department, with power to appoint, suspend and remove.

1356. SEC. 3. That the mayor shall be the head of the police department, and shall have exclusive power to appoint, suspend and remove all policemen and subordinates in such department; his appointments, however, shall not take effect until confirmed by the common council; he shall see that all such officers are prompt and faithful in the discharge of their duties, and shall, from time to time, take such measures as he may deem necessary for the preservation of peace and good order and the enforcement of the laws and ordinances of the city.

Board of education may be established.

1357. SEC. 4. That the common council may by ordinance, in every city in this state, provide for and establish a board of education, to consist of seven members to be appointed by said council or other legislative body, who shall hold office for a term not exceeding three years.

Date of annual election. Officers to be elected.

1358. SEC. 5. That an election by ballot shall be held annually on the second Tuesday in March in each of the wards and election districts in every city of this state, at such times and in such manner as is now provided by law, at which election there shall be elected in each and for each of the wards of such city such members of the common council as is now or may hereafter be provided by law; one treasurer, who shall hold his office for two years; and there shall also be elected in and for every city in this state, at the city election in every three years, one person to be collector of taxes of said city, and one overseer of the poor, who shall hold their respective offices for the term of three years; there shall be elected one assessor and one chosen freeholder from each of the respective wards in every city in this state, who shall hold their respective offices for the term of three years; there shall also be elected each year three commissioners of appeal in cases of taxation, who shall hold their office for one year, and such other city and ward officers shall be elected at such city elections as is now or may hereafter be provided by law; the common council may by ordinance abolish any office not created by or in virtue of the provisions of this act, and end the term and authority of any officer serving therein.

Vacancies, how created and filled.

1359. SEC. 6. That if at any annual city election in any city of this state there shall be one or more vacancies to be supplied in any office at the same time any person is to be elected for the full term of said office, or if two or more are elected at the same time to serve for different terms, the term for which each person voted for, for said office, is intended, shall be designated on the ballot; and if any person who shall be elected to any office at the annual city election shall not qualify according to law, for the space of twenty days after such election, or if any person who shall be elected or appointed to fill any vacancy in any of said offices shall not qualify, according to law, for the space of twenty days after such election or appointment, his office shall be deemed vacant.

When council may fill vacancies.

1360. SEC. 7. That in case of death, resignation, disability, disqualification, removal from office, neglect or refusal to act, or removal out of the city or ward of any of the officers, or any vacancy in any office except mayor, councilman or justice of the peace, it shall be lawful for the common council to appoint others in their stead until the next city election, or in case of appointed officers until the regular period for appointments, who shall, during the said term, perform the like services, be entitled to the same fees and be subject to the same responsibilities as though elected at the annual election or appointed at the regular time; *provided*, that all resignations shall be sent to the mayor, and he shall report the same to the common council at its next meeting thereafter.

Proviso.

Officers to take oath.

1361. SEC. 8. That every person elected or appointed to any office in pursuance of this act, or of any law or ordinance of the common council, including the city solicitor, who shall be elected for the term of three years, shall, before they enter upon the duties of such office, take and subscribe before the mayor or city clerk, an oath or affirmation, faithfully and impartially to execute the duties of his office to the best of his knowledge, skill and ability and such other oaths as may be required by the laws of this state; all such oaths or affirmations shall be filed by the city clerk in his office; the city treasurer, superintendent of schools, receiver of taxes, con-

Officers who shall give bonds.

stables, overseer of the poor and such other officers as the common council may require shall also, before entering upon the duties, each give bond to the city in its corporate name, in such sum and with such sureties as the common council may approve, or as may be required by any act of the legislature of this state, conditioned for the faithful performance of the duties of their respective offices; and if at any time the common council shall deem the sureties of any officer insufficient, they shall require him to give additional security.

Officers may be removed for cause.

1362. SEC. 9. That any city or ward officer, except members of the board of city assessors, may be removed from office by resolution, for disability or other good cause shown, upon complaint in writing to the common council, setting forth such cause, supported by one or more affidavits of the truth of the facts therein alleged; *provided, however*, that no such removal shall take place until the person sought to be removed has had an opportunity to be heard in his defense, nor unless two-thirds of all the members of the common council shall vote for such removal; *and provided further*, that any member of said board of assessors may be removed from office for good cause shown, on the recommendation of the finance committee of the common council and by two-thirds vote of all the members of the common council; vacancies occurring in such office shall be filled for the unexpired term by the common council.

Proviso.

Proviso.

Powers and duties of common council.

1363. SEC. 10. That the common council shall annually elect a president from its own body, and in his absence a president pro tempore, choose officers, appoint its time and place of meeting, determine the rules of its own proceedings, be the sole judge of the election returns and qualification of its own members, keep a journal of its proceedings, and may punish or expel a member for disorderly conduct or a violation of its rules; but no expulsion shall take place except by the vote of two-thirds of all the members elected, nor until the delinquent member shall have had five days' notice of the proceedings and an opportunity to be heard in his defense; and the first meeting of the common council after the annual election shall be held on the third Tuesday in March of every year.

Duties of city clerk.

1364. SEC. 11. That the city clerk shall be the clerk of the common council; he shall keep accurate minutes of the proceedings of the common council, and shall perform such other duties as may be required of him.

Quorum.

Special meetings.

1365. SEC. 12. That a majority of the whole number of members of the common council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time; the president of the common council shall be authorized to call special meetings of the common council when the public good shall in his opinion render it necessary; and on the request of a majority of the common council, in writing, addressed to the president, it shall be his duty, or in his absence it shall be the duty of the city clerk, to call special meetings.

Ordinances, how passed and published.

Proviso.

Mayor's approval or veto.

1366. SEC. 13. That no ordinance shall be passed or repealed by the common council except with the concurrence of a majority of all the members of the common council, and no ordinance shall be altered or repealed save by ordinance to that effect; every ordinance shall be read three times before its final passage; no ordinance shall be finally passed until a subsequent meeting to that at which it may be introduced, but each and every ordinance so passed as aforesaid shall be published in one or more of the newspapers printed and published in said city, ten days before the same shall take effect; *provided*, that whenever the common council shall cause a revision of the ordinances of the city to be made, and shall direct the same to be published in a printed volume, it shall not be necessary to publish such revised ordinance in a newspaper; every ordinance or resolution passed by the common council shall, before it takes effect, be presented, duly certified by the city clerk, to the mayor, who, if he approves the same, shall sign it; and if he do not approve it, shall return it, with his objections, to the clerk within five days after the presenting thereof, and if he do not return it with such objections within the time above specified it shall take effect as if approved by him; whenever

any ordinance or resolution shall have been returned with objections aforesaid to the common council, the said common council shall, at its first meeting thereafter, order the objections to be entered at length on its journal, and shall proceed to reconsider the same, and if, on reconsideration, it shall pass the council by a vote of two-thirds of all the members, it shall take effect notwithstanding such objections; in all such cases the votes shall be taken by ayes and nays and entered in full on the journal of said council; the publication of all ordinances as herein required shall in all cases be presumed to have been made until the contrary shall be proved; the publication of private ordinances shall in all cases be procured to be done and the expense thereof borne by the person benefited thereby or applying therefor.

Enacting clause of ordinances.

1367. SEC. 14. That the enacting clause of all ordinances shall be, "Be it ordained by the common council of the city of ———." (Inserting herein the name of the city in which this act shall take effect.)

Title of common council.

1368. SEC. 15. That the councilmen of any city in the state duly elected by the several wards thereof shall constitute and be called "The common council of the city of ———." (Inserting herein the name of the city in which this act shall take effect.)

Purposes for which ordinances may be passed.

1369. SEC. 16. That the common council of all cities in this state shall have power within the said city to make, establish, publish, modify, amend or repeal ordinances, rules, regulations and by-laws, for the following purposes:

Regulating, &c., the city finances and property.

I. To manage, regulate and control the finances and property, real and personal, of the city; to borrow money and negotiate temporary loans, in anticipation of taxes or other revenues for any current year, and for payment for any public improvement, not exceeding the amount of the specific assessment for such improvement;

To prevent vice and immorality.

II. To prevent vice, drunkenness and immorality; to preserve public peace and good order; to prevent and quell riots, disturbances and disorderly assemblages;

Suppressing gambling, &c.

III. To restrain and suppress disorderly and gaming-houses and houses of ill-fame; all instruments and devices for gaming, and to prohibit all gaming and fraudulent devices;

To license saloons, &c.

IV. To license and regulate restaurants and victualing-houses or cellars, ale and lager beer saloons or gardens, billiard tables and bowling alleys, and to prohibit the keeping of the same except by persons duly licensed;

To regulate sports and exhibitions.

V. To prohibit, restrain, regulate and license all sports, exhibitions of natural or artificial curiosities, caravans of animals, theatrical exhibitions, circuses or other public performances and exhibitions for money, and fix the sums to be paid for such licenses to the city treasurer;

To establish boundaries of streets, &c.

VI. To ascertain and establish the boundaries of all streets, avenues, highways, lanes and alleys and public places in said city, and prevent and remove all encroachments upon said streets, avenues, highways, lanes, alleys and public places;

To regulate repairing and cleaning streets, &c., and use thereof.

VII. To regulate, clean and keep in repair the streets, highways, avenues, lanes, alleys, public places, bridges, wharves and docks in such city, and to prevent and remove obstructions and incumbrances in and upon all streets, highways, sidewalks, crosswalks, bridges, sewers, drains, aqueducts, water-courses, wharves, docks and other public places in any manner whatever; to prescribe the manner in which corporations or persons shall exercise any privileges granted to them in the use of any street, avenue, highway or alley in said city, or in digging up any street, avenue, highway or alley for the purpose of laying down pipes or any other purpose whatever, and to prohibit and prevent any such use or work at such times and seasons of the year as they may designate; to direct and regulate the planting, rearing, trimming and preserving of ornamental shade trees in the streets, avenues, parks and grounds of the city, and to authorize or prohibit the removal or destruction of such shade trees, and to enforce the removal of snow, ice or dirt from the sidewalks and gutters by the owners or occupants of the premises fronting thereon;

To regulate the planting of trees, &c.

To open, grade and improve streets, &c., and to lay sewers.

VIII. To open streets and to grade, pave or otherwise improve the same; to widen, level, grade, flag or reflag, curb or recurb, gutter, or regutter, pave or repave, or gravel the sidewalks and gutters; to lay drains or construct sewers in any street, avenue, highway or section thereof; to prescribe the manner in which any such work shall be performed, and the mode in which the costs, damages and expense thereof shall be ascertained, and to cause such costs, damages and expense, or any proportion thereof, to be assessed in just and equitable proportion on the owners of the property, whether improved or unimproved, receiving benefit from such improvement, and to determine the time and manner in which such assessments shall be collected;

To regulate grading, filling and fencing of lots.

IX. To direct the digging down, draining, filling up or fencing of lots, pieces or parcels of ground in said city which shall be deemed dangerous or unwholesome, or necessary to carry out any improvement authorized by this act; to prescribe the manner in which the said work shall be performed, and to cause the expense thereof to be assessed in just and equitable proportions on the lots or pieces or parcels of ground, whether improved or unimproved, benefited thereby, to the extent of the peculiar benefits conferred, and to determine the time and manner in which such assessment shall be collected;

To regulate projections of buildings, signs, &c.

X. To prevent or regulate the erection or construction of any stoop, step, platform, bay window, cellar door, area, descent into a cellar or basement, sign or any post or erection, or any projection or otherwise, in, over or upon any street or avenue, and to remove the same, where already erected, at the expense of the owner or occupant of the premises;

To prevent fast driving, regulate speed of locomotives, &c.

XI. To prevent and punish horse-racing and immoderate driving or riding in any street, highway or public place, and to authorize the stopping and detaining of any person who shall be guilty of immoderate driving or riding in any street, highway or public place, and to regulate the speed and running of locomotive engines and railroad cars, motor, electric or other cars through said city, and designate the crossing at which any railroad company shall be required by the common council to station flagmen or signals to warn travelers of the approach of locomotive engines or railroad cars;

To prohibit cattle-driving on Sundays, &c.

XII. To prohibit the driving of any drove or droves of cattle through any of the streets of the city on the first day of the week, commonly called Sunday, and to regulate the same at other times;

To regulate parks, &c.

XIII. To regulate, protect and improve the parks, public burial-grounds and other public grounds in said city;

To light streets, &c.

XIV. To provide lamps, gas fixtures and other means of illumination, and to light the streets, parks and public places of every description in said city;

To regulate wells, &c.

XV. To make and regulate wells, pumps, aqueducts and cisterns in the public streets;

To establish pounds.

XVI. To establish and regulate one or more pounds, and to restrain and regulate the running at large of horses, cattle, swine and other animals, geese and other poultry, and to authorize the impounding and sale of the same for the penalty incurred and the cost of keeping and impounding and sale;

To prohibit dogs running at large and to tax owners.

XVII. To regulate and prevent the running at large of dogs, to authorize the destruction of dogs running at large and to impose taxes on the owners of dogs;

To regulate slaughter houses, &c.

XVIII. To locate, regulate and remove slaughter-houses, establish and regulate public markets, license and regulate butchers, designate the places and manner of selling meats, fish, fruits and vegetables, and to prohibit persons from selling such articles without license; to provide for the removal and disposition of offal, garbage and all refuse matter which may become dangerous to the public health, and to authorize and empower the local board of health, established or to be established in such city, to make removal and disposition thereof, or to provide therefor, and in case such boards are given such power and authority, they are hereby authorized to

accept the same and given power to remove and dispose of such refuse matter;

To regulate vending of hay, wood, &c.

XIX. To prescribe and regulate the places of vending or exposing for sale wood, hay, straw and other articles from wagons or other vehicles;

To prevent annoyances.

XX. To regulate or prohibit any practice having a tendency to frighten animals or to annoy persons passing in the streets or on the sidewalks in said city;

To punish drunkards, beggars, &c.

XXI. To restrain and punish drunkards, vagrants, mendicants and street beggars;

To establish a board of health.

XXII. To establish a board of health, define its powers and duties and provide for the protection and maintenance of the health of the city;

To prescribe terms of contracts.

XXIII. To prescribe the manner in which all contracts for performing work or furnishing materials for the city shall be made and executed;

To abate nuisances.

XXIV. To abate and remove nuisances of every kind, and to require the owner or occupant of any grocery, cellar, tallow-chandler's shop, butcher's stall, soap factory, tannery, stable, privy, hog-pen, sewer or other offensive or unwholesome house or place, lot or inclosure, to cleanse or remove or abate the same, or, in a summary manner, to cause the same to be done at the expense of the owner or occupant thereof;

To regulate burials and funerals.

XXV. To regulate the burial of the dead, prohibit interment within such limits as it may prescribe, purchase land for public burial places, direct the keeping and return of bills of mortality and to establish such regulations for conveying the dead through the streets of said city as the health, quiet and good order of the city may, in their opinion, require;

To license cartmen, hacks, peddlers, exhibitions, &c.

XXVI. To license and regulate cartmen, porters, hacks, cars, omnibuses, stages and all other carriages and vehicles used for the transportation of passengers, baggage, merchandise and goods and chattels of any kind, and the owners and drivers of vehicles and means of transportation; also auctioneers, common criers, hawkers, peddlers, pawnbrokers, junk-shop keepers, keepers of bath-houses, boarding-houses and news-stands, sweeps, scavengers, traveling and other shows, circuses, theatrical performances, plays, exhibitions, concerts, skating rinks, itinerant venders of merchandise, medicines and remedies, and also the place or places 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 rates 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 purpose; and to fix and prescribe penalties for the violation of such ordinance or ordinances, and that fees for such licenses may be imposed for revenue; *provided*, that no person or persons shall be required to take out a license in order to sell any product of his farm;

To assess license fees and to prohibit unlicensed persons and places.

Proviso.

To regulate ringing of bells, &c.

XXVII. To regulate the ringing of bells and the crying of goods and other commodities for sale at auction or otherwise, and to prevent disturbing noises in the street;

To regulate swimming or bathing.

XXVIII. To regulate or prohibit swimming or bathing in the waters of or bounding the city;

To regulate weights and measures.

XXIX. To regulate weights and measures in conformity with the standard of weights and measures established by law, and to require every merchant, retailer, trader and dealer in merchandise, or property of any description which is sold by measure or weight, to cause their weights and measures to be sealed by the city sealer and to be subject to his inspection;

To establish police force.

XXX. To establish, regulate and control a day and night police, and to fix and determine their compensation;

To establish and regulate a fire department.

XXXI. To establish, regulate and control a fire department; to regulate and define the manner of the appointment and removal of the officers and members of the fire department, their duties and their compensation; to provide fire engines and other apparatus and engine-houses and other places for keeping and preserving the same, and to provide water for extinguishing fires;

To regulate construction of buildings, chimneys, &c.

XXXII. To regulate and control the manner of building dwelling-houses and other buildings, and to prohibit within certain limits, to be from time to time prescribed by ordinance, the building or erection of any

dwelling-house, store, stable or other building of wood or other combustible material; to regulate the construction of chimneys and to compel the sweeping thereof; to prevent the setting up or construction of furnaces, stoves, boilers, ovens or other things in such a manner as to be dangerous; to prohibit the deposit of ashes in unsafe places, or in any of the streets or alleys of the city; to authorize any city officer, or person or persons whom they may designate for that purpose, to enter upon and inspect any place or places for the purpose of ascertaining whether the same is or are in a safe condition, and, if not, to direct or cause the same to be made so; to regulate or prohibit the carrying on of manufactories dangerous in causing or promoting fires; to regulate or prohibit the manufacture, sale or use of fireworks and the use of firearms in said city; to regulate or prohibit the keeping or conveying gunpowder, camphene, benzine, naphtha, gasoline, coal oil, spirit gas, petroleum and other dangerous materials and the use of candles and lights in barns, stables and other buildings; to raze or demolish any building or erection which by reason of fire, contagion, or any cause may become dangerous to human life or health or tend to extend a conflagration, to require all such further or other acts to be done, and to regulate and prohibit the doing of all such further or other acts as they may deem proper to prevent their occurrence and to provide for the extinguishment of fires in said city;

To prohibit deposit of ashes.

To appoint building inspectors.

To regulate dangerous manufactories.

XXXIII. To adopt all legal and requisite measures for levying and collecting all taxes, fines, penalties and all assessments for public improvements;

To levy and collect taxes.

XXXIV. To prescribe and define the duties of city and ward officers when not otherwise prescribed by law, and fix and determine their compensation and the penalty or penalties for failure to perform their duties, and to prescribe the bonds and sureties to be given by the officers of the city for the discharge of their duties, and the time for executing the same in cases not otherwise provided by law; to appoint from time to time such subordinate officers as may be deemed necessary to carry into effect the powers and duties hereby created or otherwise conferred or imposed;

To prescribe duties of officers, &c., and appoint subordinate officers.

XXXV. To fix and determine a reasonable compensation to be paid to any officer of said city or other person employed by them for any service required of him by this act or by any ordinance or resolution passed by them for which no specific fee or compensation is provided to be paid by the person or persons for whom such service shall be performed;

To fix compensation of officers.

XXXVI. To supply the city and its inhabitants with water; to regulate the laying of water mains through the streets of the city, and to direct their extension throughout the entire city and to tax all lots on the streets where such pipes are laid in an equitable, lawful and just ratio, for the expense of laying such mains in front of such lots, whenever a majority of the owners of lots fronting on any street petition for the laying of such pipe in such street, but in no case shall the tax herein authorized to be laid exceed the cost of providing and laying a four-inch main; and to prescribe by ordinance the manner in which water bills shall be credited to the persons paying such tax, until the whole amount of tax so paid shall be refunded by such credit.

To provide a public water-supply system.

1370. SEC. 17. That the common council shall have power to make and establish such other ordinances, rules, regulations and by-laws, not contrary to the laws of this state or of the United States, as they may deem necessary to carry into effect the powers and duties conferred and imposed on them by this act, or by any other laws of this state, and such also as they may deem necessary and proper for the good government, order, protection of persons and property, and for the preservation of the public health and prosperity of said city and its inhabitants, and the same to alter, amend and repeal.

Council may adopt other ordinances, and alter, amend or repeal the same.

1371. SEC. 18. That in all cases where, by the provisions of this act, the common council have authority to pass ordinances on any subject, they may prescribe a penalty or penalties for the violation thereof, either by imprisonment in the city or county jail not exceeding thirty days, or by a fine not exceeding two hundred dollars; the book of record of the ordinances and by-laws of the said common council shall be taken and received

May prescribe penalties for violation of ordinances.

Ordinances, how proven.

as evidence of the due passage by said common council of all ordinances and by-laws recorded therein; *and further*, the volume of ordinances and by-laws printed and published by authority of the common council, shall in like manner be taken and received as evidence of the ordinances and by-laws of the said common council, and the publication of the said ordinances and by-laws in the public newspapers, according to law, shall in all cases be presumed to have been made, until the contrary be proved.

May build and maintain city hall, &c.

1372. SEC. 19. That the common council shall have power to build and maintain a city hall, hospital and such other public buildings as they may deem necessary, and such as may be required for the accommodation of the city officers and the day and night police of the said city.

May build and maintain work and almshouses.

1373. SEC. 20. That the common council shall have power to build, establish, keep and maintain one or more workhouse or workhouses, and one or more almshouse or almshouses, and to direct or order what persons shall be placed therein, and for what length of time, and the manner of ordering, placing and keeping persons therein; and the application and expenditure of all moneys raised for the maintenance and relief of the poor of the said city shall be under the government, management and direction of the said common council and of the overseer of the poor, and such other officer as they shall, for that purpose, constitute and appoint; and the overseer of the poor shall possess the powers and perform the duties of the like officers of the townships of this state, so far as such powers and duties shall be consistent with the provisions of this act.

May grant tavern licenses.

1374. SEC. 21. That the sole and exclusive power to grant licenses to persons to keep inns and taverns within said city shall be vested in the common council, on such terms and under such limitations, regulations, and restrictions as the said common council shall, by their ordinance, impose.

Mayor to make recommendations to common council, offer rewards, &c.

1375. SEC. 22. That the mayor shall have the power and it shall be his duty to recommend to the common council all such measures connected with the security, health, cleanliness and ornament of the city, and the protection and improvement of its government and finances as he shall deem expedient; to keep the corporate seal of the city; to cause the laws and ordinances to be duly executed and enforced, and to exercise a supervision over the official acts of the subordinate officers of the city, and to report any dereliction of duty to the common council, and generally to perform all such duties as may be required of him by law or the ordinances of said city; he may, under the direction of common council, offer rewards for the detection or apprehension of the perpetrator of any offenses against the city ordinances, or of any high crime or misdemeanor committed within the city, to be paid on the conviction of the criminal.

Mayor invested with powers of police justice for quelling riots, &c.

1376. SEC. 23. That the mayor is hereby invested with all the powers and duties which any police justice of the city is now or may hereafter be invested with, and for the purpose of quelling any insurrection, riot, disturbance or disorderly assemblage, shall have control of the constables, watchmen or other police force of said city, and the power to call upon the

May call out militia.

citizens for aid in all such cases, and, when he shall deem it proper, to call out the militia of said city and employ the same in quelling any insurrection, riot or disturbance of the peace, and on parades or other public gatherings, when he shall deem it necessary to preserve the public peace and good order, he may appoint for the occasion such special policemen as he may deem necessary and the common council shall provide for their compensation.

Who shall act during absence, &c., of mayor.

1377. SEC. 24. That whenever there shall be a vacancy in the office of mayor, or whenever the mayor shall be prevented by absence from the city, sickness or other cause, from attending to the duties of his office, the president of the common council, or, if he be absent or disabled, the president to be elected pro tempore, shall act as mayor, and possess all the rights and powers of mayor during the vacancy in office caused by the absence or disability of the mayor.

Powers and duties of other officers.

1378. SEC. 25. That the chosen freeholders, commissioners of appeals in cases of taxation, school superintendent, overseer of the poor, constables

and city clerk, elected or appointed as aforesaid, 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; and that the collector of taxes shall possess the powers and perform the duties of collectors of the several townships, so far as such powers and duties shall be consistent with the provisions of this act.

Tax collector may appoint deputies.

1379. SEC. 26. That the collector of taxes shall have power to appoint, with the consent of the common council, one or more deputies, who shall have power to do all and every act or acts which it may be lawful for the said collector to do, and every warrant directed to him may be executed by his deputy or deputies, or either of them, in as full and complete a manner as if executed by the said collector of taxes; and the said deputy and deputies shall give such security for the faithful performance of their respective offices as the common council shall direct.

Where collector's office shall be kept.

1380. SEC. 27. That the office of the said collector of taxes shall be kept in the city hall of said city, and he, or such deputy as he shall appoint, shall sit at such times and places in said city for the receipt of taxes as the common council shall direct; and it shall be the special duty of the said collector of taxes to receive all taxes which may be paid, and preserve in his office the duplicate assessment-books, which shall from time to time be delivered to him by the board of city assessors, as prescribed by this act.

Collector shall keep record of receipts.

1381. SEC. 28. That the said collector of taxes shall enter in suitable books to be kept for that purpose, the sums received by him for taxes respectively, and the ward for which received, with the names of the persons on whose account the same shall be paid on each day, and shall, at least once in each week, furnish to the treasurer a detailed statement of such sums, designating the amounts received, and from which ward, and shall also at the same time pay over to the said treasurer the amount so received, and shall also pay over to the treasurer once in each week the sums collected on any warrant to him directed; he shall thereupon receive from the said treasurer a voucher for the payment of such sum or sums, which he shall file in the office of the city clerk, to be presented to common council.

Shall make weekly payments to treasurer.

Duties of city treasurer.

1382. SEC. 29. That the city treasurer shall receive all moneys belonging to the city, and shall disburse the same as directed by law, and shall keep an account of all receipts and expenditures in such manner as the common council shall direct, and shall perform such other duties appertaining to his office as may be required of him by law, or by any ordinance or resolution of the common council; the said treasurer shall at the close of the fiscal year make out a true and full account of the receipts and expenditures during the year, and also the state of the treasury, and within twenty days thereafter deliver said account to the city clerk, who shall lay the same before the common council at their next meeting; and if, upon examination, it shall be found correct, it shall be filed in the office of the city clerk; the fiscal year shall commence on the third Tuesday of March in each and every year.

Shall make annual statement.

Fiscal year.

Duties of city clerk.

Shall record ordinances.

1383. SEC. 30. That the city clerk shall keep all records, books, papers and documents of the city, countersign all licenses signed by the mayor, and keep the record of all the proceedings of the common council; he shall engross all the ordinances of the common council in a book to be provided for that purpose, with a proper index, which book shall be deemed a public record of such ordinances, and such ordinances shall be signed in said book by the president or president pro tempore of the common council and said clerk; and copies of all papers duly filed in the office of the city clerk, and transcripts thereof, and of the records and proceedings of the common council, and copies of the laws or ordinances of the said city, certified by him under the corporate seal, shall be evidence in all courts and places; he shall also receive and pay over to the treasurer all moneys which by any law, ordinance or usage are paid to the city clerk.

President and clerk shall attest ordinances and attach seal.

Shall receive moneys and pay same to treasurer.

Duties of other officers.

1384. SEC. 31. That the city engineer, surveyor, city solicitor, city marshal, city sealer of weights and measures, and all other officers appointed by the common council, shall possess the powers and be subject to the obligations conferred and imposed on them by law, or by the ordinances, by-laws, rules and regulations of the common council, and on application for that purpose the secretary of state of this state shall allow and assist the said sealer of weights and measures to compare and adjust the standard of weights and measures for said city and shall certify and seal the same in the manner required by law.

Purposes for which council may impose taxes.

1385. SEC. 32. That the common council shall have power to raise by tax in each year such sum or sums of money as they shall deem expedient for the following purposes:

I. For lighting the streets of the city;

II. For the maintenance and support of the poor;

III. For regulating, cleaning and keeping in repair the streets and highways and the construction of crosswalks;

IV. For regulating, improving and protecting the public grounds and parks;

V. For the support of public schools and for erecting and maintaining public school-houses;

VI. For the support of the police department, armory purposes and to support the national guard;

VII. For the support of the fire department;

VIII. For supplying the city with water for the extinguishment of fires and other purposes;

IX. For the payment of interest upon the city debt, and upon temporary loans, and such part of the principal thereof as may be due and payable and to provide a sinking fund therefor;

X. For purchasing necessary real estate;

XI. For the contingent expenses of the city and for all other objects and purposes authorized by law, to be assessed and collected in such manner as the common council shall by ordinance direct; *provided, always*, that it shall not be lawful for the common council to raise by taxation in any one year, in the general assessment for city purposes, an amount of money that shall cause a greater rate than two hundred cents on one hundred dollars of the valuation of the real and personal property rated and returned for taxation therein as shown by the duplicate of assessment for the current year.

Proviso.

Organization of city assessors.

1386. SEC. 33. That the board of city assessors shall meet on the second Monday in May, in each and every year, and at such meeting they shall select one of their number as chairman, who shall hold his office one year or during the pleasure of said board of assessors; a majority of said assessors shall constitute a quorum for the transaction of business, and they shall have power to adjourn from time to time, and make such rules and regulations for their own proceedings as are not inconsistent with this act and the laws of this state relating thereto.

Powers and duties of city assessors.

1387. SEC. 34. That the said board of city assessors shall possess the powers of the like officers of any township of this state, and having duly organized, shall proceed to make a full and fair valuation, enumeration and assessment of the real and personal property in said city according to law; and all statements, returns and assessments shall be as of the twentieth day of May of each year, the day on which the assessment is to commence; the assessors shall tabulate and arrange such valuation, enumerations and assessments in lists which shall also exhibit, in alphabetical order, the names of all persons, firms, companies or corporations liable to be assessed to pay any tax, designating the lands, tenements and real estate, as laid down on the maps prepared or to be prepared for that purpose, or on the city atlas, and to affix to each lot, and each subdivision thereof, as the same stands recorded on said atlas, distinguishing the same by their marks or numbers, the true value of each lot or subdivision, together with the value, enumeration and assessment of the objects liable to taxation, for which such person, firm, company or corporation is liable

at the time of making these valuations, enumerations and assessments; the assessors shall also make out lists, showing the name and residence of each male inhabitant of said city of the age of twenty-one years and upwards, upon whom they shall assess such poll tax as required by law, or by any ordinance of the common council passed in conformity with any statute in force at the date of the passage of this act; that when the board of assessors of said city shall have made the valuation of personal property and real estate and the improvements thereon, they shall give one week's notice in two of the daily newspapers published in said city, setting forth the time or times and place when and where they will attend to hear and consider all complaints touching such valuations, under such rules and regulations as they may prescribe, and to increase, reduce, alter or modify such valuations as to them may appear just and equitable, after hearing such complaints and making such changes as they may deem proper.

Shall make list of persons liable to poll tax.

1388. SEC. 35. That the said board of assessors, or such of their number as they may designate for that purpose, shall attend all the meetings of the county board of assessors which shall be convened according to law, and in the proceedings of said county board of assessors, shall be entitled to as many votes as there are wards in the city they represent, which votes shall be cast as said city assessors, or a majority of them, shall direct.

Assessors shall attend meeting of county board of assessors.

1389. SEC. 36. That it shall be the duty of the common council to cause to be made and revised from time to time, a city map or atlas, therein delineating and describing the lots, plots and tracts of land and real estate situate within such city and subdivisions thereof; the said city map or atlas, and all revisions thereof, shall be deemed public records of the said city.

City atlas shall be made and revised.

1390. SEC. 37. That the city engineer or surveyor shall prepare, keep, renew and have the custody of the city map or atlas; he shall keep an index or register of the lots shown thereon and the several owners thereof; and it shall be his duty to make and keep in his office an abstract of each and every deed and transfer affecting lands situate in such city; each abstract shall be properly indexed and entered upon the city atlas, it shall be the duty of the common council to fix by ordinance the compensation of the city engineer or surveyor for the above and all other duties appertaining to his office.

Duties of city engineer or surveyor.

1391. SEC. 38. That it shall be the duty of the board of assessors to prepare full lists of taxes and have them ready for examination, revision and correction before the common council on or before the third Monday in August in each year; and the common council, after such examination, revision and correction, when satisfied that the taxes have been justly and legally assessed, shall direct duplicates to be made in the shortest possible time and place in the hands of the collector of taxes, whose duty it shall be to make out bills and serve said bills as required by law; said bills shall contain a printed notice when and where the commissioners of appeal will meet for the purpose of hearing any appeals from parties considering themselves aggrieved.

When tax lists shall be ready for examination by council.

Collectors shall have duplicate and make out and serve tax bills.

1392. SEC. 39. That the assessors of the said city shall so arrange their duplicates as to specify therein, by letters and numbers as shown on the city atlas, the several lots or subdivisions of lots assessed, with the valuation thereof as shown by the register kept by the city engineer or surveyor, to the end that each lot and subdivision, as they appear at the time upon the city atlas, shall be liable for the whole tax assessed thereon; but if any lot shall have been sold and such transfer not entered on said atlas and register as aforesaid, the person who shall have paid the tax assessed thereon shall have the right to recover from the other parties interested their proportions of said tax, in proportion to the value of the several parts thereof.

Form of duplicate.

1393. SEC. 40. That the assessors of every city in this state shall assess in the respective divisions and wards of such city, in one and the same duplicate, all the state, county and city taxes to be levied in such city in each year; and the assessors shall assess the said taxes, and the collector

Assessment and collection of taxes

of taxes shall demand payment at such times as the taxes are now payable in the townships of this state, or in case the common council shall fix a different time at the time so fixed of the tax or sums assessed on each individual named in the assessment-books, in person or by notice left at his or her place of residence, or if not a resident in said city, by notice mailed to his or her last-known post-office address, and also give notice of the time and place of the meeting of the commissioners of appeal; and the said assessors and collector of taxes shall, for performing the duties required of them by law and the city ordinances, be entitled to receive such compensation as the common council may by ordinance direct, in lieu of such fees as are now provided by law.

Compensation of assessors.

Board of education incorporated.

1394. SEC. 41. That the board of education shall be a body politic in fact and in law; they and their successors forever shall and may have perpetual succession and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in any court of law or equity; and that they and their successors may have a common seal and alter the same at their pleasure; that the said board of education shall annually elect a president from its own body and in his absence a president pro tempore, appoint its time and place of meeting and determine the rules of its own proceedings, and such boards of education shall have power to choose a city superintendent, define his duties and fix his compensation, not to exceed one thousand five hundred dollars per annum, and his term of office shall not exceed three years; it shall also appoint a secretary, who shall keep a journal of its proceedings and perform such other duties as the board may prescribe; a majority of the whole number of members shall constitute a quorum for the transaction of business, and no resolution or order shall be adopted without the consent of a majority of the whole number of said members; the president of the board shall have the power to call special meetings whenever he shall deem it expedient.

May have a common seal.

Shall elect president, &c.

Shall elect city superintendent and secretary and fix terms and salary.

Quorum.

Board of education to furnish estimate to council.

1395. SEC. 42. That the board of education shall prepare and transmit to the common council, on or before the first day of July in each year, an estimate of the amount of the moneys necessary for the support of public schools in such city during the year, which estimate shall specify particularly under the several heads of erection and repairs of school-houses, salaries of teachers and officers of the board, school books, school furniture and school libraries, heating and fuel and incidental expenses, as nearly as may be, the several sums required for each branch of expenditure, and the said common council of any such city shall determine by ordinance or resolution the amount of moneys to be appropriated to the public schools during the year, including therein the quota of any such city of the annual appropriation made by the state for the support of the public schools; and the said common council are hereby empowered to raise by tax such sum or sums of money for the support of the public schools, as required by the law of the state, or such sum in addition thereto as said council may deem expedient or necessary; and all moneys so raised and appropriated shall be expended by said board of education for the support of public schools in such city or school district according to the provisions of their act of incorporation and the state law in relation to the public schools.

Council shall determine amount of appropriation.

Board shall take charge, &c., of school-houses and schools.

1396. SEC. 43. That the board of education shall take charge of the public school-houses in any such city or school district and shall cause all necessary repairs to be made to the same, and are also empowered to establish public schools of different grades, adapted to the age and progress of the pupils, including evening schools for apprentices, minors and adult persons; to select and employ teachers; to provide school books, school furniture and school libraries for the schools; to purchase heating apparatus and fuel or otherwise provide for the heating and lighting of such school-houses, and incur such incidental expenses for the maintenance of the schools as may be necessary; and to adopt rules and regulations for the admission of pupils, the investigation and inspection of the schools, and the government and the studies to be pursued therein.

1397. SEC. 44. That whenever the superintendent and the board of education shall, with their annual estimate aforesaid, represent to the common council that it is expedient to buy land and erect a school-house thereon, with the estimated cost thereof, the common council shall have the power to raise the whole or any part of money required for such purpose, either by tax, to be included in the next general assessment for city purposes, or by loan on the credit of such city, and when collected or borrowed it shall be paid over to the superintendent of public schools to be applied for the object aforesaid.

Council shall raise money for new school-houses.

1398. SEC. 45. That the said superintendent and board of education shall, at the close of the fiscal year, prepare a report embracing the number of schools under their charge, specify their grades, and the number and the names of the teachers, the number of pupils on the roll and the average attendance in each school, and a full and true account of the expenditures of the board during the year, under the respective heads of repairs of school-houses, salaries of teachers and officers of the board, school books, school furniture, school libraries, heating and fuel, and incidental expenses, and shall transmit the said annual report to the common council, and a copy thereof to the state superintendent of public schools.

School superintendent shall report annually in detail.

1399. SEC. 46. That the city treasurer shall, in each year, from time to time pay over to the said school superintendent such sum of money as shall have been ordered to be raised by tax for the support of public schools in such city, not required by the law of this state to be paid to the county collector, on warrants to be signed by the said superintendent and countersigned by the comptroller.

City treasurer shall pay school taxes to superintendent.

1400. SEC. 47. That it shall be lawful for the common council of any city in this state, whenever in their opinion the public good requires it, by ordinance:

Council shall have power by ordinance—

I. To lay out, accept and open any street, road, highway or alley, public park or square within said city; and to order and cause any street, road, highway or alley already laid out to be vacated, straightened, altered or widened, and to take and appropriate for any such purpose when necessary, any lands and real estate upon making compensation to the owner or owners thereof, as is hereinafter mentioned and provided, and such powers shall belong exclusively to the said common council; and they may at their discretion, by ordinance, accept such lands as may be dedicated by the owners thereof as public streets or alleys, and thereupon shall be bound to keep up, repair and maintain the same to the same extent that they may be bound to keep up, repair and maintain streets or alleys laid out by other legal proceedings;

To lay out, accept, open and repair streets, parks, &c.

II. To order and cause sewers or drains to be constructed, and, if necessary, to take and appropriate, for the purpose of constructing such drains or sewers, any lands and real estate upon making compensation to the owner or owners thereof, and to make a just and equitable assessment upon all the owners of land and real estate peculiarly benefited thereby, in proportion to the benefit each shall be deemed to acquire of the costs, damages and expenses so incurred;

To construct sewers and drains and assess benefits.

III. To order and cause any street or section of a street to be graded, graveled, paved, flagged or otherwise improved and regulated in such manner as they may deem advisable, and to assess the costs and expenses of such improvement upon the owners of property benefited thereby; in no case, however, shall any assessment for benefits made under the authority of this act exceed the special and peculiar benefit which the owner or owners of said property shall receive by reason of the improvement.

To grade and improve streets or section of, and assess cost upon owners.

1401. SEC. 48. That no ordinance shall be adopted by the common council for making any improvement or performing any work under and by virtue of the provisions of the last preceding section of this act or either of the subdivisions thereof, or under and by virtue of this act, until public notice shall be given of the intention of the common council to cause such improvement to be made or such work to be done and performed, and to that end it shall be the duty of the city clerk, by direction of the common council, to give notice in two or more newspapers published and circulated

Ordinance not to be adopted without previous notice.

in any such city, for at least ten days, of the intention of the common council to cause such improvement to be made or such work to be done and performed, briefly describing such work or improvement, and requesting such persons as may object thereto to present their objections in writing at the office of the city clerk, on or before a day to be specified in said notice, not less than ten days from the time of such direction, and at any time thereafter the common council may proceed to consider such ordinance as aforesaid.

Objections may be presented in writing.

Further proceedings may be by resolution.

1402. SEC. 49. That whenever any ordinance shall be passed by the common council for making any improvement or performing any work under and by virtue of the provisions of this act, all further acts and proceedings which it may be necessary for the said common council to take to carry out said improvement or work to completion, and all orders relating thereto, may be by resolution and not by ordinance.

Council may treat with owners of lands for streets, &c.

1403. SEC. 50. That whenever the common council shall determine, by ordinance, to lay out and open any street, road, highway or alley, public park or square within said city, or to alter, widen or straighten any street, road, highway or alley, or any part of a street, road, highway or alley, or to make any sewer or drain in any part of said city, and to take and appropriate for such purpose any lands or real estate, they are hereby authorized to treat with the owner or owners thereof, and make such compensation therefor as they shall judge reasonable, and thereupon shall receive from such owner or owners a conveyance of such lands and real estate to the city, and such compensation shall constitute a part of the whole amount of costs, damages and expenses to be assessed under and in pursuance of the provisions contained in this act.

When for any reason agreement cannot be made, city assessors shall assess damages.

1404. SEC. 51. That when the said common council cannot agree with the owner or owners of such required lands or other real estate for the same, or when by reason of the legal incapacity or absence of any such owner or owners no such agreement can be made, it shall be lawful for the board of city assessors, and they are hereby required upon application in writing of the said common council, signed by their presiding officer, which application shall specify the improvement and the land or other real estate, with the appurtenances intended to be taken for such purpose, to make an estimate and assessment of the damage that any such owner or owners will sustain thereby, and in estimating and assessing such damages the said board of assessors shall have due regard as well to the value of the land or other real estate, with the appurtenances, as to the injury or benefit of the owner or owners by the making thereof, and it shall be the duty of the said board of assessors, after estimating said damages, to assess the amount thereof, including the sums which may have been agreed upon as the price of any of the lands or other real estate to be taken for such purpose (where agreement has been made with the owner or owners), and also the costs and expenses incurred, upon all the owners of land and real estate in such city peculiarly benefited thereby in proportion as nearly as may be to the advantage each shall be deemed to acquire, specifying in such assessment such lots or subdivisions of lots, designating the lots and subdivisions of land so benefited by the letters and numbers by which they are distinguished on the city atlas, together with the name of the respective owner or owners thereof, and the amount assessed on each lot, which said assessment shall be embraced in the report of the said board of assessors hereinafter directed to be made; and in case where the common council shall agree with the owner or owners of such lands as to the compensation therefor, the board of city assessors shall make their estimate for damages in accordance therewith.

When land is condemned damages shall be first assessed.

1405. SEC. 52. That in making every assessment required to be made by the provisions of this act when any land or real estate is taken or condemned, the said board of assessors shall first estimate and assess in the manner herein required, the damages sustained by the owner or owners of lands and real estate taken therefor; and after having ascertained the amount of such damages they shall declare in their report thereof the cost and expense incurred, which shall include the damages awarded, and they

shall thereupon at once proceed to make an estimate and assessment of the benefits conferred by the said improvement, as required herein, and they are hereby authorized to declare the damages awarded and benefits assessed in one report, or they may make their report of the damages and benefits separately, as they may deem best.

Benefits shall then be assessed.

1406. SEC. 53. That after the filing of any such report, the same shall be, at the next meeting of common council, presented by the city clerk, and the same being ratified by the common council shall be binding and conclusive upon the owner or owners of any such lands and real estate; and the lands condemned for any such improvement shall thereupon be and become the property of the city for the purposes for which the same are condemned; *provided, however*, that any person or persons conceiving himself, herself or themselves aggrieved by the proceedings of the said common council or of the said board of assessors in making an estimate and assessment of damages may appeal therefrom to the supreme court of this state within thirty days after the time of the making of the final order of the common council confirming the said report; and the supreme court shall order a trial by jury to assess the damages sustained by the party aggrieved, the trial whereof shall be conducted as in other cases of trial by jury; and the said court shall have power to order and issue framed and proper proceedings to be had for this purpose.

Report of assessments, when binding and conclusive.

Proviso.

Appeal may be taken to supreme court.

And trial by jury may be ordered.

1407. SEC. 54. That in case of non-payment on demand of any damages estimated and assessed as aforesaid, with interest, from the date of the confirmation of such assessment, in case of no appeal to the supreme court as aforesaid, the person or persons entitled thereto may sue for and recover the same from the said city in an action of debt, with costs, in any court having cognizance thereof; and the said proceedings of the said commissioners and common council or the award of the said jury, as the case may be, shall be conclusive evidence against the defendant; *provided, however*, that where benefits for any such improvement have been assessed against any person or persons entitled to any award of damages, no recovery shall be had of the damages awarded until such benefits have been paid, and it shall be lawful for the said city to offset the benefits so ascertained against the damages so awarded; and if in any case the damages awarded exceed the benefits assessed the balance only shall be recovered; if the benefits assessed exceed the damages awarded, then the excess benefits may be collected in the manner hereinafter provided.

Damages may be sued for if not paid.

Proviso.

1408. SEC. 55. That the city treasurer shall, under the direction of the common council, tender and pay to the owner or owners of such land and real estate, if resident in the said city, the amount of such estimate and assessment of damages due to him or them, and if any such owner is not resident in said city, or, upon due inquiry, cannot be found therein, or is a lunatic or idiot or under age, or if for any other lawful cause is incapacitated to receive the same, or if such owner will not receive the same and sign a proper voucher therefor when tendered, then the said treasurer shall make affidavit of such fact and file the same with the city clerk; and the common council shall thereupon direct the amount of such assessment so due as aforesaid to be placed in the city treasury for the use of the person or persons to whom it may be due; and the said moneys so placed in the city treasury shall be paid by such city to the person or persons entitled thereto on demand, but without interest, except from the time demand is made and payment after demand refused.

Tender of payment shall be made to owners.

When owner is incapacitated to receive, the treasurer shall file affidavit.

1409. SEC. 56. That before making any assessment for benefits against any owner or owners of lands and real estate benefited, the said board of assessors shall give notice in the manner hereinbefore directed of the time and place when and where they will meet for the purpose of considering the same, at which time and place all persons interested therein may be heard, and the said board may adjourn such hearing from time to time until they have completed the consideration thereof and made report thereon as herein directed; and any person who may deem himself aggrieved thereby may present his objections to any such report to the common council of said city at its next stated meeting after the filing of

Assessors shall give notice of meeting for assessment of benefits.

Proceedings on objection to assessments.

such report; and if the said common council shall refuse to ratify the same it shall be returned by the said common council to the said board of assessors for further consideration, and so from time to time until such report shall be duly ratified and confirmed.

On ratification of assessments they shall become a lien, &c.

1410. SEC. 57. That upon the ratification of any such assessment of benefits, the report thereof shall be transmitted immediately to the officer charged by law with the collection of taxes, and it shall be the duty of such officer thereupon to give notice, in two of the newspapers published in the said city, that such assessment has been duly returned to him for collection; all such assessments shall draw interest from the date of confirmation, at the rate of seven per centum per annum, and, with the costs of collection, shall be and become, from the date of confirmation, a first and paramount lien upon the lands and real estate so assessed, which lien shall remain until such assessment is paid.

Proceedings to enforce collection of assessments.

1411. SEC. 58. That it shall be the duty of the collector of taxes to whom any such assessments shall have been returned, in addition to the publication of the return thereof to him for collection as herein provided, as far as practicable, to cause a notice to be given to every person assessed of the amount of the assessment so made against him or her, with the costs which have been incurred in the collection of the same and the interest which has accrued thereon; but if, for any reason, such notice is not given to or received by the person or persons assessed, it shall in no way impair the right of the city to collect the assessment so made; in all cases in which assessments so made and returned shall remain unpaid for the space of six months from the date of confirmation, it shall be lawful to collect the same by a sale of the property assessed, and it shall be the duty of the said collector within one year after any such assessment shall have been returned to him, to make sale thereof as herein directed; he shall, before making such sale, make advertisement thereof in two of the newspapers published in said city for the space of four weeks, at least once each week, giving notice of the time and place of sale, together with a description of the lot or tract of land assessed by the letter or number by which it is designated on the city atlas, and specifying the amount of money so assessed, laid out and expended on the same; and he shall at the time and place so designated sell the said land and real estate at public sale for the lowest term of years at which any person will agree to take the same, not exceeding fifty years, and pay the assessment with interest thereon, and all other expenses incurred subsequent to the confirmation thereof; and thereupon the mayor of said city, at the request of the common council, and under its corporate seal, shall make, execute and deliver a declaration of sale to the purchaser thereof, and such purchaser, his executors, administrators or assigns, by virtue thereof and under authority of this act, shall lawfully hold and enjoy the said land and real estate, for his and their own proper use, until said term shall be fully completed and ended; and they shall be at liberty to remove therefrom all buildings and improvements they shall erect or place thereon, during the said term, and every such purchaser, his heirs and assigns, shall pay all taxes which shall be lawfully assessed against the said lands and real estate during the said term; *provided, however*, that if the owner of any such lands and real estate, or any person having an estate therein or any mortgagee thereof, shall within six months after such sale pay to the purchaser, his executors, administrators or assigns, the amount of money so paid by him to said city, with the amount paid for any improvement made thereon, and all taxes paid by such purchaser, with interest at the rate of twelve per centum per annum, such owner, or person having an interest therein or mortgagee, as the case may be, shall be entitled to re-enter and repossess the said lands and real estate and hold the same, and have such rights therein as if the said sale had not been made.

Sale of lands.

Proviso.

Notice to mortgagees.

Excess of costs over benefits to be paid by city at large.

1412. SEC. 59. That it shall be lawful for the common council in every case to cause so much of the cost, damage and expense of any public improvement authorized by and made under the authority of this act, as represents the special and peculiar benefit conferred upon the owners of

land and real estate benefited thereby, to be assessed thereon in the manner herein provided, in proportion to the benefit each shall be deemed to acquire, the balance of such cost, damage and expense to be imposed upon and borne by the city and provided for by general taxation; or the said common council may, at its option, provide that the entire expense of any such improvement shall be borne by the city at large, and shall have power, within the limitations herein imposed, to provide therefor by taxation.

Proceedings for establishing and altering grades of streets.

1413. SEC. 60. That it shall be the duty of the common council to establish, by ordinance, the grades of the several streets and alleys which now are or may hereafter be opened in such city, and it shall not be lawful, after the same shall have been established, to alter the grade of any street or alley except by ordinance, nor shall any such ordinance be passed until the common council shall have caused a notice of such contemplated alteration to be served upon the owners of lots fronting or bordering upon that part of said street or alley, the grade of which is proposed to be altered, or to be published for two weeks in two of the daily papers of such city; which notice shall state the time when the common council will proceed to consider said matter, which time shall not be less than two weeks from the time of serving or first publication of said notice; at the time said matter shall come up for consideration of the common council, all persons interested may appear and be heard by themselves or their counsel for or against the alteration proposed; all changes which such alteration of grade may render necessary in gutters, sidewalks, front fences or other property of any landowner shall be made by the common council at the time of altering such grade, and said common council shall have a right to recover of any landowner who was an applicant for such alteration the expense of making such change in his or her gutter, sidewalk, front fences or other property, together with costs of suit, by an action of debt in any court of competent jurisdiction, in the name of any such city, against such landowner for so much money laid out and expended by them for the use of such owner, and declare generally and give the special matter in evidence.

Council may regulate use of sewers, &c.

1414. SEC. 61. That the common council are hereby authorized and empowered to pass and adopt such ordinances, rules and regulations as to said council may seem proper, for regulating, controlling and prescribing the manner in which any sewer or drain constructed by order of said council shall be used, and the manner in which connections therewith from any house, building, yard or other place shall be made, and for the keeping of the same in proper repair, and providing for the costs thereof; and sewers and drains constructed under the provisions of this act shall be constructed in accordance with the maps and surveys made, or hereafter to be made, for that purpose.

Assessments to be imposed on lots as recorded in city atlas.

1415. SEC. 62. That all assessments upon lot-owners in said city, which may be made for any purpose authorized by this act, or to be authorized by law, shall be made upon the lots or subdivisions of lots as they stand recorded on the city atlas; and in advertising the same for such assessments or for taxes, or in entering liens thereon, it shall be sufficient to describe such lots or subdivisions of lots by the letters and numbers and streets by which they are distinguished on the city atlas, together with the name or names of the owner or owners thereof, as the same appears in the register by the city surveyor; if in any case the name of the owner or owners is unknown, and cannot be ascertained, such assessments may be made against the lots as so designated, with the declaration that the owner's name is unknown.

When owner's name is unknown, lots to be so assessed.

When assessments are set aside new assessments may be made.

1416. SEC. 63. That whenever, by the judgment of any court wherein any certiorari has been, is or may be brought, or any assessment made under the provisions of this act has been or is set aside or reversed for irregularity or informality in such assessment, it shall be lawful for the common council to cause a new assessment to be made of so much of the amount of the original assessment as may be so set aside, or of the amount thereof still remaining unpaid, to become a lien as of the date of the confirmation of the original assessment, and to be proceeded with in all re-

spects in conformity with the provisions of this act and the laws relating thereto.

When common council may re-institute assessment proceedings.

1417. SEC. 64. That whenever, by reason of any informality or illegality in any proceedings of the said common council or of the board of city assessors, surveyor or other agent of the common council or official of the city, in laying out, opening, altering, widening or closing streets, avenues or public squares, or in grading, altering the grade, paving, curbing, guttering and flagging the sidewalks of any street or avenue, or constructing any sewer or drain, any assessment shall be set aside by judicial authority, it shall be lawful for the common council to re-institute the proceedings set aside, upon the same basis upon which the original proceedings were based, or otherwise if they see fit so to do, and lawfully proceed therein the same as though the former proceedings had not been had, or the said common council may re-institute said proceedings from the point where such informality or illegality may have been so decreed, and whenever the common council shall discover that any such proceedings are liable to be set aside by judicial authority, they may re-institute said proceedings from the point where such informality or illegality commences, and no assessment shall be deemed invalid in consequence thereof, but no writ of certiorari shall be allowed or issue to remove any assessments made upon the owner or owners of lands and real estate for any work or improvement made or to be made, unless the same be applied for within sixty days after the confirmation of such assessment by the common council of such city.

When certiorari shall not be allowed.

Member of board of assessors shall not be interested in any public improvement.

1418. SEC. 65. That whenever any public improvement shall be made, or ordered to be made, and the expenses thereof ordered to be assessed by the board of city assessors, and if any member of the board of city assessors shall be interested in said improvement, either as an owner of property to be taken or to be assessed, or in any other way, except merely as a taxpayer in said city, such assessor shall not be deemed competent to assist in making the assessment connected with such improvement, but the common council shall, by a majority vote of all its members, elect some disinterested resident in said city to act with the remaining members of the board of assessors in making said assessments; such person, before entering upon his said duties, shall take and subscribe an oath or affirmation before the city clerk, to be filed by him, faithfully and honestly to perform said duties; no report of assessment shall be considered illegal in consequence of the incompetency of any of the persons making such report, if a majority of the persons making such assessments were competent and disinterested; and it shall be lawful for the common council to make such reasonable compensation for the services of any person appointed to fill such vacancy as it may determine.

Disinterested resident shall be elected.

Council may purchase or condemn gas, electric light, water or sewer plant.

1419. SEC. 66. That it shall be lawful, whenever the common council shall deem it necessary, and for the public good, to purchase or condemn the plant, property and franchises of any person or corporation used for the purpose of supplying any city or the inhabitants thereof with gas, electric or other light, or with water, or for the removal and disposition of the sewage thereof; and if, under the authority conferred in this section, any plant, property or franchise used for any or either of the purposes herein specified shall be condemned, the method of procedure for this purpose shall conform to and be regulated by the provisions of an act entitled "An act to enable cities to supply the inhabitants thereof with pure and wholesome water," approved April twenty-first, one thousand eight hundred and seventy-six, and the supplements thereto.

Erection of public buildings authorized.

1420. SEC. 67. That if in any city of this state there are not public buildings, the property of the city, suitable and proper to accommodate the different officers and departments of the municipal government, and for public and municipal uses, it shall and may be lawful for the common council of such city, by ordinance, to provide for the erection and construction of any and all such buildings, and to purchase, appropriate and condemn suitable lands and real estate therefor, and to suitably furnish and equip the same.

1421. SEC. 68. That if it shall be found proper and necessary to condemn any lands for any of the purposes mentioned in the foregoing section, authority is hereby given to the common council of such city so to do; and the method of procedure in every such case shall conform to and be the same provided for in the act entitled "An act to empower cities to acquire land for public use by condemnation," approved March seventeenth, one thousand eight hundred and ninety-one, constituting chapter one hundred and four of the session laws of one thousand eight hundred and ninety-one. Proceedings for condemning lands for public buildings.

1422. SEC. 69. That it shall be lawful for the common council, in the name of the city, to issue its corporate bonds for any sum not exceeding twelve per centum of the taxable value of the property rated for assessment; and such obligations shall be issued in the name of the city and under its corporate seal, and shall be signed by the mayor and attested by the city clerk and countersigned by the city treasurer; they shall be of such denomination and bear interest at such rate, not exceeding five per centum per annum, and be payable at such times and place, not exceeding thirty-five years from the date of issue, as the common council may determine; they shall be disposed of at not less than their par value; the proceedings [proceeds] of such securities may be used for the purpose of making any of the improvements authorized by this act and for other lawful purposes; *provided*, that no issue of bonds exceeding the sum of ten thousand dollars at any one time shall be made without the concurrence of two-thirds of all the members of council; in every instance the issue of bonds shall be authorized by ordinance, and the purpose for which the bonds are to be used shall be expressed therein, and the proceeds thereof shall be used for no other purpose; whenever bonds are issued to provide funds for any of the purposes authorized by this act, any part of the costs and expenses of which is authorized to be assessed upon the property benefited, the assessment for benefits in every such case shall be exclusively appropriated for the redemption of the bonds so issued, and shall be kept separate from the other funds of such city and devoted exclusively to this use; and it shall be the duty of the common council to provide by taxation in the annual tax levy of such city, such sum, in addition to the benefits so assessed, as will be sufficient in every case to provide for the annual interest of the bonds so issued and a sinking fund for the redemption thereof, which shall not be less than two per centum of the amount so issued. City may issue bonds under certain conditions. Proviso. Money raised by tax for purposes of this act shall be kept separate.

1423. SEC. 70. That the mayor, comptroller and the city treasurer and the city solicitor, ex officio, shall constitute a board of commissioners whose duty it shall be to take charge of the sinking fund of such city, and shall have power to make investments thereof from time to time, and to pay therefrom the obligations of the said city for which such fund is provided, as they may mature and the interest thereon as it falls due; they shall annually report to the common council the condition of the funds under their charge and the investment thereof; and the common council shall have the power to direct the manner in which such investment shall be made. Commissioners of sinking fund constituted. Powers and duties of.

1424. SEC. 71. That it shall be lawful for the common council of such city to make temporary loans for a period not exceeding, with any renewals thereof, two years, which loans shall only be in anticipation of city taxes and of assessments for laying out and opening, straightening, altering or widening any street, road, highway or alley, and for the construction of sewers and drains, and the regulating, grading and paving of streets and sidewalks, and for fees imposed for licenses, and shall not exceed the amount of such anticipated assessments, taxes and license fees; and all such temporary loans shall be retired and paid when the revenues anticipated are received and it shall be lawful to appropriate and use the moneys so obtained on temporary loans in anticipation of revenues for city purposes; and all moneys so appropriated and used shall be provided for in the annual tax levy. Council may make temporary loans in anticipation of taxes and assessments.

1425. SEC. 72. That whenever any bonds shall be issued under the authority of this act it shall be the duty of the city clerk and the city City clerk and city treasurer shall keep record of bonds.

treasurer, under the direction of the common council and subject to such regulations as may be made by the common council in relation thereto, to keep an account of all such bonds in proper books, with the numbers, dates and amounts thereof, when redeemable, the place of redemption, the place where interest shall be paid and when payable, with the title of the ordinance authorizing the same and the names of the person or persons to whom the same shall be issued; and they shall supervise the negotiation thereof, and shall make report thereof to the common council from time to time and whenever required so to do; and it shall be the duty of the city clerk to furnish to the commissioners of the sinking fund a statement showing the amount of every such issue and all the particulars herein required to be recorded, as soon as the bonds authorized in any case shall have been disposed of.

City clerk to furnish statement thereof to sinking fund commissioners.

Office of comptroller may be established.

1426. SEC. 73. That it shall be lawful in any such city to create and establish the office of comptroller whenever the common council thereof shall by the passage of an ordinance determine so to do, which ordinance shall define the duties of such officer in conformity with the provisions of this act.

Appointment and term of comptroller.

1427. SEC. 74. That when such office shall be established therein by an ordinance therefor, the common council of such city, at its first stated meeting after the passage of such ordinance, and the approval thereof, shall elect some suitable person, a resident of such city, to serve therein; and the person so elected shall hold his office for the term of three years, and until his successor is in like manner elected and has qualified.

Comptroller to take oath and give bond.

1428. SEC. 75. That the officer, before entering upon the duties of his office, shall take and subscribe, before any officer authorized to administer oaths and affirmations in this state, an oath or affirmation faithfully to execute the duties of his office to the best of his knowledge, skill and ability, which oath or affirmation shall be filed in the office of the city clerk of such city; and he shall give a good and sufficient bond for the faithful performance of the duties of his office in such sum as the common council electing him shall direct, which shall be approved by the common council, and he shall receive as compensation for his services such salary as the common council of such city shall prescribe.

Powers and duties of city comptroller.

1429. SEC. 76. That it shall be the duty of such officer to sign all warrants on the city treasury, to superintend all fiscal concerns of the city in such manner, and to report thereon at such times as the common council shall by ordinance direct; to keep separate accounts of all appropriations made by the common council to each and every department of the city government, and to require all warrants on the treasury to state particularly against which appropriation the said warrant is drawn; the said officer, on receiving a bill or warrant, shall examine the same, and if it be for any purpose for which there is no appropriation, or the appropriation for which is exhausted, or to which for any other cause he cannot give his approval, he shall report the fact to the common council, and the warrant in such case shall not be signed except by special authority from or direction by the common council; he shall, upon the death, resignation, removal or expiration of the term of office of any officer or person who by law may be authorized to receive or disburse the moneys of such city for which said comptroller is acting as aforesaid, audit and examine the accounts of such officer or person and report the condition of his business to the common council; he shall, before the payment of any warrant against such city, first audit the bill containing or making up such claim, with a view to ascertain whether the supplies charged to said city, or the services alleged to have been rendered, have been furnished and rendered as stated, and whether the sum or sums demanded therefor are proper, and after so auditing shall return said bill to the officer or department having control of the appropriations against which said claim is made and against which the warrant is to be drawn; he shall, as often as he may deem necessary, or as the common council may require, suggest plans to the said common council for the improvement, advantage and better management of the finances of such city; he shall have control of the fiscal

concerns of all departments and officers of the city, and may require at any time, from any and all of its departments and officers, a full exhibit of their business and a statement and account, in writing, of any or all moneys and property of said city within the control or in the hands of said department and offices, and the said comptroller shall immediately, in case of any default, delinquency or official misconduct report the same to the common council; and in order that he may fulfill his duties and make complete audits of the account, he shall have power, whenever he shall see fit, to examine all books, papers and vouchers pertaining to any and all departments of the city's business, and shall have free and unrestrained access to them for the purposes aforesaid; and the said officer shall also be authorized, whenever in his judgment the interests of the city shall require, to examine, under oath, any person presenting a bill or claim against such city for the payment of moneys; and also to examine witnesses and to investigate, by other evidence and inquiry, all facts relating to such claim which, in his opinion, are necessary to establish the accuracy and good faith of such claim, and to ascertain the city's liability therefor; that it shall be deemed a misdemeanor for such officer to sign any warrant or order, or otherwise procure the payment of any money from the city treasury not authorized by law.

Constitution and powers of police court.

1430. SEC. 77. That there shall be constituted in every city a court to be called "the city police court" (inserting the name of each city), which shall have power, authority and jurisdiction as follows: the said court shall have, possess and exercise all the jurisdiction, powers and authority in civil and criminal matters which are or may be conferred upon justices of the peace in and for the several counties of this state, excepting such as are conferred on such justices of the peace by the following acts: an act entitled "An act constituting courts for the trial of small causes," approved March twenty-fourth, one thousand eight hundred and seventy-four, and the various supplements thereto; an act entitled "An act concerning landlords and tenants," approved March twenty-seventh, one thousand eight hundred and seventy-four, and the various supplements thereto; an act entitled "An act for the relief of creditors against absconding and absent debtors," approved March twenty-seventh, one thousand eight hundred and seventy-four, and the various supplements thereto; an act entitled "An act concerning forcible entries and detainers," approved April sixteenth, one thousand eight hundred and forty-six, and the various supplements thereto; and an act entitled "An act to increase the jurisdiction to justices of the peace," approved March twelfth, one thousand eight hundred and seventy-nine, which jurisdiction shall, within the corporate limits of said city, be exclusive of all other courts, judges and magistrates, excepting the courts of oyer and terminer and general jail deliveries, quarter sessions, and special sessions of the counties of this state, and the judges thereof; and the said court shall have exclusive jurisdiction for the purpose of enforcing and recovering any penalty for the violation of any ordinance, by-law or regulation of said city, or any board thereof, and is hereby empowered, on oath or affirmation made according to law, that any person or persons has or have been guilty of any violation of any of the ordinances or regulations of said city, or any board thereof, to issue process at the suit of said city, either in the nature of a summons or warrant, as to the police justice thereof shall seem most advisable, against the person or persons, corporation or corporations so violating such ordinance or regulation, which process shall, when in the nature of a warrant, be returnable forthwith, and when in the nature of a summons, be returnable in not less than two nor more than fifteen days; such process shall state what ordinance or regulation has been violated by the defendant or defendants named therein, and on the return of such process, or at the time to which the matter shall have been adjourned, the said police justice shall proceed to hear testimony, and to determine and give judgment in the matter without the filing of any pleadings; and such police justice shall, if judgment be rendered for the plaintiff, forthwith issue execution against the goods and chattels or body of the defendant or defendants, which execution shall

Shall have power to enforce city ordinances.

May give judgment without the filing of pleadings.

May issue executions against persons or property.

be executed and returned as near as may be in the manner in which executions are now by law issued and returned in courts for the trial of small causes; such police justice is further empowered to inflict and impose fines not exceeding the sum of fifty dollars on such person as shall be brought before him charged with disorderly conduct, or breach of the peace, if found guilty; or, in his discretion, to order such person committed to the city prison or county jail for any period not exceeding ninety days; *provided*, that in all cases where the penalty shall exceed twenty dollars, and appeal may be taken in the same manner as an appeal might be had from judgments in courts for the trial of small causes; and such judge is hereby empowered to cause any person or persons who shall be found guilty of the violation of any ordinance or regulation of said city or any board thereof, and any person or persons found guilty of disorderly conduct, breach of the peace, or any other offense within his jurisdiction, and who may refuse to pay any fine or penalty imposed by him by reason of the same to be sent to the city prison or county jail, for a term consisting of one day for every dollar of such fine or penalty, and each day's imprisonment of the defendant or defendants shall be taken to satisfy one dollar of such fine or penalty; the said court shall also have jurisdiction to try and determine all cases of simple assault and battery and petty larceny, where the offense is committed in the corporate limits of the city in which the court is established; *provided*, that the person or persons charged with any such offense shall, in writing, waive indictment and trial by jury.

May impose fines.

Proviso.

Proviso.

1431. SEC. 78. That the said police justice shall keep a docket of the proceedings in such court, which docket shall contain the names of the parties and a record of all the proceedings in every case excepting the evidence given; this docket shall be the property of the said city and shall be kept in the court-room, subject to the inspection of all persons lawfully entitled thereto; and all papers in every case (excepting complaints and recognizances required by law to be delivered to the prosecutor of the pleas of the county or grand jury) shall be filed and remain in said court; and no conviction other than the record in said docket shall be necessary in any case.

Police justice shall keep docket and record of proceedings.

And file necessary papers.

1432. SEC. 79. That the common council shall have power by a majority vote of all its members, to appoint a police justice of said court, who shall hold his office for the term of two years, and until his successor has been in like manner appointed; every such officer shall, before he enters upon the discharge of his duties, take and subscribe, before some person authorized to administer oaths, an oath faithfully and impartially to execute the duties imposed upon him by law, according to the best of his skill and ability; and shall enter into bond to the said city, in its corporate name, in such sum and with such sureties as the common council may approve, conditioned for duly accounting to the proper authorities for all moneys that may come to his hands as such officer, and for the payment of the same on demand to the person or persons entitled to receive the same.

Police justice, how appointed.

To give bond and take oath.

1433. SEC. 80. That the officers empowered to serve any process issued by any such police justice shall be, besides the constables elected or appointed in such city, the officers or members of the police force of such city; and such process shall be returned in the same manner, as far as circumstances shall permit, as similar processes shall be out of courts for the trial of small causes or before a justice of the peace; and that such defendant or defendants shall, if such police justice see fit to adjourn the hearing of the charge, and so order, enter into recognizance as near as may be in the same manner directed in courts for the trial of small causes, or before a justice of the peace, in such sum, and with such surety as may be approved by such justice; such recognizance to be given to such city for the appearance of the said defendant or defendants on the day to which said hearing may be adjourned; and in default of appearance the said recognizance may then be collected in the same manner as it might have been had the said recognizance been taken in a proceeding in a court for the

Ministerial officers of police court.

Proceedings in police court.

trial of small causes, or before a justice of the peace; if a commitment shall be issued when the defendant is not in custody, it shall be lawful for such defendant to be taken into custody under such commitment in the same manner as under a warrant, and to be delivered to the keeper of the city or county jail, as directed in such commitment.

How ordinances may be proven.

1434. SEC. 81. That in any proceeding had before such police justice for recovering the penalty for the violation of any ordinance or regulation of such city or any board thereof, such ordinance may be proved by a copy thereof certified under the seal of the city clerk, or by the introduction in evidence of any compilation of the ordinances of such city or any public board of such city duly authorized and recognized as the ordinances of the same; and due publication of all ordinances or regulations of any public board of such city shall be presumed to have been made until the contrary is proven.

Rooms, &c., shall be provided for police court.

Council shall specify time and place for holding court.

1435. SEC. 82. That the common council of such city where a police court is established shall provide a suitable room or rooms for the transaction of the business of such court and procure suitable furniture therefor, and such books and stationery as may be necessary; and such common council shall designate the place in said city where such police justice shall sit for the transaction of business, and the time during which said court shall be open on each day, to the end that the administration of justice by such police justice throughout such city may be facilitated and made convenient; and it is hereby made the official duty of such justice to be in attendance at the time and place so designated; and the said common council shall designate and provide the police officer or officers to attend the sittings of such court and preserve order therein.

Police court to be a court of record, &c.

1436. SEC. 83. That such police court shall be a court of record and shall have an official seal, and all persons shall be amenable to punishment for contempt of said court in the same manner as other courts of record in this state having power to punish for contempt of court; and such police justice may make such rules as may be necessary for the orderly conduct of business and proceedings in such court; such rules shall be approved by and subject to revision by the president judge of the court of common pleas of the county in which such city is situate.

Fines, &c., paid to city treasurer.

1437. SEC. 84. That such police justice shall pay over daily to the treasurer of such city, for the use of such city, all fees, fines, penalties and costs which he may receive for the violation of ordinances and other offenses whereof complaint is made before him, and the receipt of such treasurer therefor shall, on the payment thereof, be a sufficient discharge for the same.

Police justice to make reports of moneys received.

1438. SEC. 85. That such police justice shall, whenever required by the common council, make a report in writing of the moneys received by him as such police justice, not before reported, for fines, penalties and costs of suit, when and from whom, and for the violation of what ordinance or ordinances received, and what judgments remain unpaid; and when such written report shall have been audited by the comptroller of such city, said police justice shall, without delay, pay over to the treasurer of such city all moneys thereby appearing to be due from such police justice, taking the receipt of such treasurer for the amount so paid.

Acts not repugnant to this act to remain in force.

1439. SEC. 86. That all laws in force in any city of this state not inconsistent with or repugnant to the provisions of this act shall remain and continue in force, and all powers conferred and duties imposed thereby upon the governing body or any municipal officer thereof shall apply to and be conferred upon all boards and bodies hereby created and officers to be elected or appointed under the authority of this act having like or corresponding powers and duties.

Act to be submitted to popular vote before having effect.

1440. SEC. 87. That this act shall take effect immediately, but its provisions shall remain inoperative in any city of this state until assented to by a majority of the legal voters thereof voting at an election to be held in such city, at any time to be fixed by the common council of such city, or other legislative body of such city, of which the city clerk of such city shall cause public notice of the time and place of holding the same to be given

by advertisements signed by himself, and set up in at least twenty public places in such city, and published in two or more daily newspapers printed therein, for at least six days previous to the day of such election; and said clerk shall provide for each elector voting at such election ballots to be printed or written, or partly printed or partly written, on which shall be either the words "for the adoption for this city of the provisions of an act entitled 'An act relating to and regulating the government of cities,'" or "against the adoption for this city of the provisions of an act entitled 'An act relating to and regulating the government of cities;'" that the polls for such election shall be held at the usual place of holding the annual charter election in such city, and shall be opened at six o'clock in the forenoon and closed at seven o'clock in the afternoon, and such election shall be conducted by the proper election officers of such city for the time then being, and in the manner as may then be prescribed by the law regulating elections therein, and such officers shall return to the common council or other legislative body of such city, a true and correct statement in writing, under their hand, of the result of said election, the same to be entered at large upon the minutes of said body; and upon such adoption, and not otherwise, this act shall in all respects be and become operative in such city and binding on the inhabitants thereof, and upon all persons and property to be affected thereby, and shall abrogate, repeal and annul all acts and parts of acts now existing, whether general or special, in any wise affecting the government of such city, which are contrary to or inconsistent with the provisions of this act.

Supplement.

P. L. 1895, p. 81.

Approved February 18, 1895.

Act not to apply to cities of the first class.

1441. SEC. 1. That the provisions of the act entitled "An act relating to and regulating the government of cities," approved April twenty-fourth, one thousand eight hundred and ninety-four, shall not apply to or affect any city of the first class of this state.

An act authorizing any town, township or borough or part thereof containing a population exceeding five thousand inhabitants, to be incorporated as a city, after a vote of the people, and providing for the government and powers of such cities.

P. L. 1895, p. 506.

Approved March 22, 1895.

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Town, borough, &c., having over 5,000 inhabitants may become a city on approval of voters at an election.

1442. SEC. 1. That the inhabitants of any town or borough, or of any township or part thereof, which had by the census of the United States taken in the year one thousand eight hundred and ninety, or which may have by any census hereafter taken under authority of any act of congress or of the legislature of this state, a population exceeding five thousand inhabitants, may become a body politic and corporate in fact and in law, by the name and title of "the mayor and city council of ———" (specifying the name to be borne by such city), whenever at any special election called for that purpose, or at any town or charter meeting or election at which the question of incorporating under this act is submitted, as hereinafter provided, it shall be so decided by a majority of the voters thereof voting at any such election; none of the provisions of any general or special act relative to cities in this state shall apply to cities organized under this act, nor shall any such act hereafter enacted so apply, unless the same shall be a supplement to this act, or such future act shall by its terms be made applicable to cities incorporated under this act.

When election shall be ordered.

1443. SEC. 2. That the council, township committee or other governing body of any such town, borough or township, upon the petition, in writing, of at least fifty resident freeholders, which petition must designate the name proposed for said city and the boundary lines of the district intended to be so incorporated, except where a whole township, town or borough is proposed to be erected into a city, in which case it shall only be necessary to state in the petition the fact that the boundary lines of the

city are to be concurrent with the lines of such existing town, township or borough; may, by the votes of the majority of all the members thereof, pass a resolution or ordinance for the holding of a special election in such town, borough, township or part thereof for the purpose of deciding whether such town, borough, township or part thereof shall become incorporated as a city under the provisions of this act, which resolution or ordinance shall prescribe the time and place or places of holding such special election and such other regulations respecting the same as may be deemed necessary and proper; *provided, however*, that instead of providing for a special election such resolution or ordinance may provide for submitting the question of incorporating as a city under this act to the voters of such town, borough or township, or part thereof, at the town charter meeting or election to be held next thereafter. Proviso.

1444. SEC. 3. That if a special election be called, notice of the same shall be given by advertisement published in one or more newspapers of such town, borough or township, and if there be none, in at least two newspapers published in the county and circulating in such town, borough or township, at least once, and by printed notices posted in at least one hundred conspicuous places therein, at least ten days next preceding the time appointed for such special election, which advertisements and notices shall specify the time, place or places and the object and purpose of holding such election; and in case said resolution or ordinance provides for submitting the question of incorporating as a city under this act at a town or charter meeting or election, notice thereof shall be given by advertisement published in one or more newspapers of such town, borough or township, and if there be none, in two newspapers published in the county and circulating in such town, borough or township for two weeks successively, next preceding the day appointed by law for holding such election, at least once in each week, and by printed notices posted in at least one hundred conspicuous places therein, at least fifteen days prior to the day appointed by law for holding such election, which advertisement and notices shall set forth that the question of incorporating as a city under the provisions of this act will be submitted at the next ensuing town or charter meeting or election. Notice of election shall be advertised and posted.

1445. SEC. 4. That any special election held under the provisions of this act shall be by ballot, and shall be held and conducted under the general acts respecting elections, and the votes shall be canvassed and counted in the manner provided by law for canvassing and counting votes at town or local elections held in such town, borough, township or part thereof; the ballots shall contain the words "for incorporation as a city under the act entitled 'An act authorizing any town, township or borough, or part thereof, containing a population exceeding four thousand inhabitants, to be incorporated as a city, after a vote of the people, and providing for the government and powers of such cities,'" or "against incorporation as a city under the act entitled 'An act authorizing any town, township or borough or part thereof containing a population exceeding four thousand inhabitants to be incorporated as a city after a vote of the people; and providing for the government and powers of such cities,'" and in case the question of incorporation as a city under this act shall be submitted at a town or charter meeting or election, the words "for incorporation as a city under the act entitled 'An act providing for the incorporation and government of cities,'" shall be printed on each ballot beneath the list of candidates thereon; if said words or proposition be marked off or defaced upon the ballot it shall be counted as a vote against the same; if not marked off or defaced the ballot shall be counted as a vote in favor thereof; if a majority of the votes so cast at any special town or charter meeting or election shall be in favor of incorporation as a city under this act, then within three days after the result of the election shall have been declared, a certificate of the result of such election, signed by the chairman of the council, committee or governing body of such town, borough, township or part thereof; and attested by the clerk thereof, together with certified copies of the petition, ordi- Election shall be by ballot and conducted under the general election law. 763-1445 A96-38

Certificate of result shall be filed when act shall take effect.

nance and statement of the board of canvassers or election officers who canvassed the vote, and proof by affidavits that due notice of such election was given, shall be filed with the secretary of state, and from and after filing the same such town, borough, township or part thereof, shall be and it is hereby declared to be a body politic and corporate in fact and in law by the name and title aforesaid, and by said name and title shall have perpetual succession, sue and be sued, prosecute and defend in all courts 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 the city.

Governing body to divide such city into wards.

1446. SEC. 5. That it shall be the duty of the council, township committee or other governing body of such town, borough, township or part thereof, which shall have voted as aforesaid for incorporation as a city under this act, to divide such city into not less than three wards; each ward shall consist of contiguous territory, and each shall contain as nearly as possible an equal number of inhabitants; *provided, however*, that such division into wards shall be made at least one month before the first annual city election held under this act; *and provided, further*, that where any town, borough, township or part thereof shall have been divided into three or more wards before adopting this act, such division shall continue, and such existing wards shall constitute the wards of the city as formed and incorporated under this act; and further, that the city council may be empowered once in four years, or upon the addition of new territory, if it shall be deemed needful to increase, revise and alter the existing wards in such manner as to secure an equal division of inhabitants in each.

Proviso.

Proviso.

When term of old officers shall expire.

1447. SEC. 6. That the officers of any town, borough, township or part thereof, which has voted as aforesaid for incorporation as a city under this act, who shall hold office at the time of filing the aforesaid certificate with the secretary of state, shall continue to hold their respective offices until the first day of May next succeeding the first annual city election held under this act, and shall in all things be subject to the provisions of this act in the same way as if they had been elected hereunder; and no surety of any such officer shall be discharged from liability on account of any change made in the duties of such officer by this act, unless, within five days after this act becomes operative in such city, he shall, in writing, notify the council of his intention to withdraw from his suretyship, in which case he shall be discharged from liability from the time this act becomes operative in such city; and the council may require such officer to furnish new additional sureties in place of the ones withdrawing as aforesaid; and if he fails or neglects so to do, the council may declare his office vacant, and may fill such vacancy in the manner hereinafter prescribed for the filling of vacancies.

When sureties may be discharged.

Additional sureties may be required.

Governing body may temporarily fill offices herein provided for.

1448. SEC. 7. That the council or governing body of the city may fill by appointment all such offices herein provided for which did not exist in the town, borough, township or part thereof of which it is the successor; and all such appointments to elective offices shall hold only until the first day of May next succeeding the first city election held under the provisions of this act, and all other such appointments shall hold only until the first day of June next thereafter.

City shall be vested with rights and property of former corporation.

1449. SEC. 8. That any city which may be formed or incorporated under the provisions of this act shall take, hold, possess and enjoy and become absolutely vested with all the rights and property of the town, borough, township or part thereof of which it is the successor, or if part of a township is incorporated the rights and property embraced within the district incorporated, and shall be responsible for and liable to all contracts, debts and obligations of such town, borough or township, or in case a part of the township, then its equitable share thereof; and further, that whenever a majority of the voters of any adjoining borough, township or part thereof shall desire to be annexed and incorporated within the limits of any city incorporated under this act, and shall so express their willingness by petition of its governing body to the city council, it shall be lawful for the mayor of the city, with the approval of a two-thirds vote of the

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Adjoining municipalities may be annexed.

city council, to submit such proposal to a vote of the people of the city at a special or annual election; and if a majority of the voters shall be in favor of enlarging the limits of the city and accepting the proposal, then to take all necessary legal action, if any, to receive the said district into the city limits; and upon the acceptance of the proposal by the city, said borough or township government shall be deemed dissolved within the said territory and the said territory shall become a part of the said city.

Proceedings for annexation.

1450. SEC. 9. That the city and ward officers of the city shall be a mayor, a city council, consisting of one councilman from each ward, a city clerk, a receiver of taxes, a city treasurer, a city attorney, an assessor, a recorder, a board of commissioners of appeal, consisting of one member from each ward, an overseer of the poor, one or more city surveyors, one or more poundkeepers, a board of education, consisting of one member from each ward, a board of excise commissioners, consisting of five members, a health inspector and a city physician, three commissioners of assessment, a chief of police and a chief engineer of the fire department, two constables in each ward, a street commissioner and such number of justices of the peace as the city may be entitled to under the constitution and laws of this state; and all cities incorporated under this act shall be entitled to be represented by not less than two freeholders in the board of chosen freeholders of the counties in which they are respectively chosen or as now allowed by law; *provided, however*, that in any city to which this act applies which shall at any time have a population exceeding ten thousand inhabitants, as shown by any national or state census, there shall be two councilmen and two members of the board of education and one assessor from each ward, and at the first election held under this act in cities in which two are to be elected from any ward one shall be elected for one year and one for two years, and annually thereafter one shall be elected for two years, except in case of a vacancy; the assessors of the various wards in cities electing by wards shall constitute a "board of assessment," and a majority of said board shall have authority to determine and equalize all valuations of property in such city, and such cities shall have as many votes in the board of county assessors in the county in which such city is as there shall be wards in any such city.

What city and ward officers there shall be.

Proviso.

1451. SEC. 10. That the mayor, councilmen, city clerk, city collector, assessor, constables, members of the board of education and commissioners of appeal shall be elected at an annual city election; the city treasurer, city attorney, recorder, health inspector, overseer of the poor, chief of police, city surveyors, commissioners of assessment and poundkeepers shall be appointed by the council in the manner and for the terms hereinafter provided; the chief of the fire department shall be elected in the manner and for the term hereinafter provided, by the active members of the fire department; *provided*, that in cities to which this act applies having more than ten thousand inhabitants, that the city clerk shall be appointed by the city council, and the treasurer, receiver of taxes, chief of police and chief of the fire department shall be nominated by the mayor and be appointed by him by and with the advice and consent of the city council by a majority of the whole number of councilmen.

What officers shall be elective and what appointive.

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Proviso.

1452. SEC. 11. That the annual city election after the first shall be held on the second Tuesday in April in each year, between the hours of seven o'clock in the morning and seven o'clock in the afternoon, at the place or places in each ward designated by the council, in the same manner and under the same regulations in all things as is prescribed by law for election of members of the general assembly of this state; notice of the time and place or places of such election and of the officers to be chosen shall be given by the city clerk at least two weeks before the day of election, by publication in one or more newspapers of the city, and if there be none, by publication in at least one newspaper published in the county in which the city is situated and generally circulating in the city; no person shall be permitted to vote at any such election unless he is an actual resident of the election district in which he offers his vote; immediately after the polls shall be closed at any such election the election officers of each election

Date and manner of holding annual election.

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Notice of election shall be advertised and posted.

Qualification of voters.

Result shall be certified and filed.

district shall count the votes given for the several candidates, and certify under their hands the number given for each, and publicly announce the same; and within twenty-four hours thereafter they shall deliver one such statement to the judge or inspector, who shall be delegated to attend the meeting of the board of city canvassers, and one to the city clerk and one to the county clerk, to be by them filed in their respective offices.

Plurality of votes shall elect.

1453. SEC. 12. That the person or persons receiving the greatest number of votes of those given in the city for any city office and of those given in each ward respectively, for any office in or from the ward, shall be declared to be elected.

Board of city canvassers, how composed.

When to meet and organize.

1454. SEC. 13. That the board of city canvassers shall consist of one judge or inspector of election from each election district in the city, who shall be appointed for that purpose by the other election officers (excluding the clerk) of such district, a majority of the board shall constitute a quorum, and the city clerk shall be clerk of said board; the board shall meet on the Friday next after such election, at three o'clock in the afternoon, at the city hall or place designated by the city council, and shall choose one of their number to be chairman thereof; if the city clerk shall fail to attend, the board may appoint one of their own number to be clerk thereof; thereupon the members of the board shall produce the statements which shall have been delivered to them as aforesaid, and lay the same before the board, and from such statements the board shall proceed to ascertain the votes given at such election for the several officers voted for thereat; *provided, however*, that if for any reason, any member of such board shall fail to produce such statement, that then, on the request of the board, the city clerk shall produce and lay before the board the statement filed with him, and the same may be used with the like effect as if it had been produced by the member so failing to deliver his statement.

Proviso.

Duties of the board.

1455. SEC. 14. That the said board of canvassers shall make a written statement of the number of votes given for the several officers to be elected for said city and the several wards thereof, the names of the persons for whom such votes were given and the number of votes given for each; that upon such statement said board shall proceed to determine and declare what person or persons have received the greatest number of votes for each of the officers mentioned in such statement; the statement and final declarations of the board shall be certified to by the presiding officer and clerk, and shall be filed with the city clerk and be by him recorded in a book to be kept for that purpose, and within two days after such canvass of the votes, the city clerk shall deliver to every person elected to any city or ward office a certificate thereof, under the seal of the city.

Final statement shall be certified and recorded.

In cases of tie, existing council shall elect temporarily.

1456. SEC. 15. That if at any such election there shall be a failure to fill any office, except that of councilman or member of the board of education, commissioners of appeal and board of excise commissioners, by reason of two or more persons having received an equal number of votes therefor, the city council then in office shall by ballot elect one of the persons so receiving an equal number of votes to fill such office until the next city election, when the unexpired portion of the term (if any) shall be filled by the electors of the city; and if there shall be a failure for like cause to fill the office of councilman or member of the board of education, a new election for such officer or officers shall be immediately ordered by the city council.

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New election shall be held for councilmen tied.

Necessary qualifications for office.

1457. SEC. 16. That no person shall be eligible to any office under this act unless he shall have resided in the city for the period of at least two years, and no person shall be eligible to any ward office unless he shall be an actual resident of the ward; and no person shall be eligible to any office unless he is a citizen of the United States; *provided, however*, that when any person elected or appointed to any city or ward office shall remove from the city or ward his office shall thereby become vacant.

Proviso.

Council shall fill vacancies in elective offices until succeeding election.

1458. SEC. 17. That in case a vacancy occurs by reason of the death, resignation, inability, disqualification, removal or refusal to serve of or by any city or ward officer, elected as aforesaid, it shall be lawful for the city

council to fill such vacancy by the appointment of a suitable and qualified elector to hold until his successor shall have been duly elected and qualified, and the unexpired portion of the term (if any remain) shall be filled at the city election to be held next after such appointment; *provided, however*, that in case any such vacancy shall occur in the board of education, said board of education may fill such vacancy by appointment until the next city election, when the vacancy shall be filled by the electors of the city; *provided*, that if at any city election there shall be a vacancy in any office to be filled and at the same time an election for a full term of such office, the term for which each person shall be voted for shall be designated on each ballot cast therefor.

Proviso.

Proviso.

1459. SEC. 18. That in case any such vacancy as aforesaid shall occur in any office which is filled by appointment or election by the city council, the said city council shall have power to fill such vacancy by the appointment of a suitable person to hold for the unexpired portion of the term of such office.

Vacancies in appointive offices, how filled.

1460. SEC. 19. That every person elected or appointed under this act to any office shall, within ten days after such election or appointment, take and subscribe before an officer qualified to administer oaths, an oath or affirmation, faithfully and impartially to execute the duties of his office according to the best of his ability and understanding, which oath or affirmation shall be filed in the city clerk's office, and if any person so elected or appointed shall fail so to qualify, then his office shall be deemed vacant, and may be filled in the manner hereinbefore provided.

When officers shall qualify.

Oath of office shall be filed.

1461. SEC. 20. That the city clerk, city treasurer, receiver of taxes and such other officers as the city council may require, before they enter on the duties of their office and within such time as the board of council may by ordinance prescribe, shall give bonds to the city in its corporate name in such sums and with such sureties as the board of council shall require and approve for the faithful performance of their duties, which bonds, when so given, shall bind the obligors therein named until the successors to the officers giving the same shall be actually inducted into office, and if any officer shall fail or neglect to give bonds in the sum or with the sureties or within the time required by such ordinance, the council may declare such office vacant, and such vacancy shall be filled in the manner hereinbefore provided.

Certain officers shall give bonds.

Failing to do so, office shall be vacated.

1462. SEC. 21. That the official terms of the several officers who shall be elected under this act at any election after the first shall commence on the first day of May next succeeding their election; and the term of any officer who shall be appointed by virtue of this act shall commence on the first day of June next succeeding his appointment, except in cases otherwise provided for in this act, and every officer shall hold his office during his official term and until his successor shall have been duly elected or appointed and shall have duly qualified.

When official terms shall commence.

1463. SEC. 22. That it shall be the duty of every officer in said city within ten days after the expiration of his term of office or his removal therefrom, to deliver to his successor in office, or to such person as the city council may appoint, all books, records, papers, vouchers and property of every kind in his possession or under his control, belonging to said city or appertaining to such office, and for a failure so to do he shall forfeit and pay to the city the sum of five hundred dollars, to be sued for and recovered in the name of the city with costs.

Retiring officers shall surrender books, papers and property of the city.

Penalty.

1464. SEC. 23. That the salaries and compensation to be paid to the mayor, councilmen, city clerk, the receiver of taxes, the city treasurer, the city attorney, the recorder, the assessor, the chief of police, health inspector, city physician, street commissioner, members of the police force, the overseer of the poor, the city surveyors, poundkeepers, commissioners of appeal and commissioners of assessment, and all other public officers shall be fixed by ordinance, and the salary or compensation of any officer which has been fixed as aforesaid shall not be increased or diminished

Salaries shall be fixed by ordinance.

Fees shall be paid to city treasurer, unless otherwise provided.

during his term of office, and all fees paid to any of said officers for any services required of them by this act or by any ordinance or resolution of the city council, shall immediately after the receipt thereof be paid by such officer to the city treasurer for the use of the city unless herein otherwise specially provided.

Officers shall be governed by general ordinances.

1465. SEC. 24. That all officers of the city shall be governed by such general ordinances as the city council may from time to time adopt, not inconsistent with the provisions of this act and the laws of this state, and every officer may be removed from office for cause by a two-thirds vote of all the members of the council, but no such removal shall take place until the person sought to be removed shall have had an opportunity of being heard in his own defense; but the provisions of this section shall not apply to any member or officer of the board of education.

Any officer may be removed for cause.

Term and duties of city clerk.

1466. SEC. 25. That the city clerk shall hold office for the term of two years, and shall, in addition to the duties required of him by this act or any other law of this state, have charge of all the records, books and documents of the city, except when the city council shall otherwise direct; he shall keep a record of the proceedings of the council; he shall engross all ordinances in a book to be provided for that purpose, which book shall be deemed a public record of such ordinances, and each ordinance shall be signed in said book by the chairman of the council and said clerk; copies of all papers duly filed in the office of the city clerk and transcripts thereof, and of the records and proceedings of the board of council and copies of the ordinances of said city, certified by the said clerk under the corporate seal of the city, shall be evidence in all courts and places; the city clerk shall pay over to the city treasurer, without delay, all moneys received by or paid to him for the use of the city; his office shall be at the city hall or the place designated by the city council and he shall keep the same open for the transaction of public business during such hours as the council shall by ordinance prescribe; it shall be lawful for him to charge and receive for his own use, at the rate of ten cents per folio, for copies of all official papers and records and for the return to any writ of certiorari made by him.

Term, duties and powers of the mayor.

1467. SEC. 26. That at the first city election held under this act, a mayor shall be elected for two years, and at the annual election every two years thereafter; he shall be the chief executive officer of the city, and may recommend the city council to pass such measures as he may deem necessary or expedient for the welfare of the city; it shall be his duty to communicate to the city council, at their first meeting in each year, and at other times when he shall deem it expedient, a general statement of the condition of the city in relation to its government, finances and improvements, with such recommendations as he may think proper; to be vigilant and active in causing the laws and ordinances of the city to be executed and enforced; to exercise a constant supervision over the conduct of all subordinate officers, and to examine into all complaints preferred against them for violation or neglect of duty; and generally, to perform all such duties as may be required of him by law or ordinance; that he is hereby invested with all the powers which any police justice may now or may hereafter have by law, and that for the purpose of quelling any insurrection, riot, disturbance or disorderly assemblage, the said mayor shall have control of the marshals, constables, watchmen and other police force of the city, and power to call upon the citizens for aid in cases of insurrection, riot or disturbance of the public peace, and when he shall deem it necessary to call out the milita of the city, if any, and employ the same in quelling such insurrection, riot or disturbance; every resolution or city ordinance passed by the city council shall, before it takes effect, be presented to the mayor by the city clerk, duly certified by the chairman of the city council and city clerk; if he approve it, he shall sign it; if not, he shall return it with his objections, and file it with the clerk within ten days after receiving it; and the city council shall at its first regular meeting thereafter enter the objections at length on its journal, and shall proceed to reconsider the same, and if two-thirds of all the mem-

bers of the city council agree to pass the same, it shall take effect, but in every such case the vote shall be taken by ayes and nays and entered on the journal; and if such ordinances shall not be returned within ten days as aforesaid, it shall take effect in like manner if the mayor had signed it; and each and every ordinance so passed as aforesaid shall be published for the space of two weeks in one or more newspapers printed and published in the city; that whenever there shall be a vacancy in the office of mayor, or whenever the mayor shall be prevented by absence from the city, sickness or any other cause from performing the duties of the office, then the chairman of the city council shall act as mayor pro tempore, and he shall possess all the rights and powers of the mayor, until such disability be removed, or a new mayor be elected; *and provided further*, that if at any time there shall be a tie vote in the city council, the mayor shall, upon the application in writing of a member of said council, attend the meeting or call a special meeting of the city council to consider the subject under discussion, and he shall be entitled to vote upon such question; *provided, however*, that the provisions of the foregoing proviso to this section shall not apply to any city having a population exceeding ten thousand inhabitants, except in case of a tie vote upon the question of the election of a chairman of the city council, and of a city clerk, and then only in case a tie vote shall again occur at the meeting at which the mayor shall so be present, in which case after such tie shall be found to exist he shall then give the casting vote.

Proviso.

Proviso.

1468. SEC. 27. That the councilmen from the several wards shall constitute the city council; they shall meet annually for organization on the first day of May, unless that day shall fall on Sunday, in which case they shall meet on the day preceding; they shall elect one of their own number chairman by a majority vote, whose duty it shall be to preside over all meetings of the city council, and in his absence the council may elect a chairman pro tempore; a majority of the whole number of councilmen shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from [time] to time; the city council shall hold stated meetings at least once in each month, at the city hall (or if there be none, at such place within the city as they may appoint by resolution), at such time as may be appointed; they shall determine and establish the rules of their own proceedings, and pass ordinances, by-laws and resolutions pertaining to the purposes and objects of the corporation as may be necessary for properly carrying out the provisions of this act; the mayor or chairman of the city council shall each have power to call special meetings of the council when necessary, and in case of their neglect or refusal to do so, it shall be lawful for any three members of such council to call any special meeting, by written or printed notice to each member, served personally or left at their places of residence at least twenty-four hours previous to the time appointed for such meeting.

When council shall meet for organization.

Quorum.

Stated meetings.

Powers and duties.

Special meetings.

1469. SEC. 28. That the receiver of taxes shall hold office for the term of two years, and it shall be his duty to receive and collect all moneys due to the city, whether for taxes, assessments, arrears of taxes or otherwise; the city council shall provide him with an office, which he shall attend at such times as shall be designated by the council by ordinance; he shall enter, in suitable books to be provided for that purpose, by the council, any sums received by him for any purpose, and he shall specify in such entry the names of the persons by whom or on whose account the payments are made, the dates of payment and the purpose for which payment is made, and if any part of any payment is for interest or penalties, the amount thereof shall be separately stated; he shall at least once each week pay over all moneys collected by him for the city to the city treasurer and shall take his receipt therefor; he shall furnish the council at least once in each month, and oftener if required, a statement of all moneys received and collected by him since his last preceding report was made, and he shall perform all such other duties appertaining to the said office as the council shall by ordinance prescribe; he shall make a full report annually on the first day of April to the council of all moneys received and disbursed by him, and he shall, whenever

Term and duties of receiver of taxes.

Shall furnish monthly statement.

Make annual report.

required, lay before the council for examination and audit all books, papers and vouchers appertaining to his office.

Term and duties of city treasurer.

1470. SEC. 29. That the city treasurer shall hold office for two years; he shall receive, safely keep and disburse, under the direction of the council, all moneys belonging to or under the control of the city; he shall keep an accurate account of all receipts and payments in such manner as the council shall direct; no money shall be paid out of the treasury except on warrant signed by the mayor and attested by the city clerk, excepting payments of state and county taxes, which the said treasurer is hereby required to make annually out of the first moneys received by him from the city collector and moneys paid into the city treasury for the redemption of property sold for taxes and assessments; and no warrant shall be drawn on the treasurer except in pursuance of an order or resolution of the council passed at a stated meeting and entered in their minutes; all such warrants shall be numbered and made payable to the order of the person entitled to receive the same, and shall specify for what purpose the amount therein mentioned is directed to be paid and the appropriation against which it is to be charged; it shall be the duty of the clerk before he delivers any warrant so drawn to enter into the margin of the book to be called "warrant-book," opposite to said warrant, the number, date, amount of the same, the appropriation to which it is charged, the date of the resolution or order authorizing it to be drawn, the purpose for which ordered, and the name of the person or persons to whose order it is made payable, and to take his or their receipt in said book at the end of said marginal entry for said warrant; *provided, however*, that nothing in this section contained shall apply to the disbursement and payment of moneys raised or received for public school purposes.

Proviso.

Treasurer shall receive and disburse school moneys.

1471. SEC. 30. That the city treasurer shall receive, safely keep and disburse all moneys raised and received for public school purposes; he shall keep separate accounts thereof and pay the same out only on warrant signed by the chairman and clerk of the board of education, and no warrant for any such purpose shall be drawn on the treasurer except in pursuance of an order or resolution passed at a stated meeting and entered in their minutes, and the provisions of the last preceding section of this act relative to warrants on the treasurer by the city council shall apply to the warrants of the board of education; and the said treasurer shall do and perform all acts and duties enjoined upon township collectors by the school laws of the state.

Treasurer shall furnish monthly statement and make annual report.

1472. SEC. 31. That the treasurer, at least once every month, and oftener if required, shall furnish the council with a statement of all moneys received and expended by him (including school moneys) since his last report, and he shall annually, on the first day of April, make to the council a full report of all his receipts and expenditures, and he shall, whenever required, lay before the council, for examination and audit, all books, papers and vouchers appertaining to his office.

Term and duties of city recorder.

1473. SEC. 32. That the recorder shall hold office for three years, and shall have jurisdiction and is hereby empowered, on oath, affirmation or affidavit made according to law, that any person or persons has or have been guilty of a violation of any of the ordinances of the city, to issue process either in the nature of a summons or warrant as to him may seem most advisable, against the person or persons so violating such ordinance, which process shall, when of the nature of a warrant, be returnable forthwith, and when in the nature of summons be returnable in not less than three or more than five days; that such process shall state what ordinance the defendant or defendants named therein has or have violated, and in what manner the same has been violated, and then on return of such process, or at the time to which the recorder shall have adjourned the same, the said recorder shall proceed to hear testimony and to determine and give judgment in the matter without the filing of any pleadings, and the recorder shall, if judgment be rendered for the plaintiffs, forthwith issue execution against the goods and chattels and against the body of the defendant or defendants; and the said recorder shall be further empowered to inflict fines not exceeding

the sum of twenty dollars on such persons as shall be convicted before him of vagrancy, disorderly conduct, breach of the peace, or, in his discretion, to order such persons to be committed to the county jail or workhouse for any period not exceeding thirty days; *provided*, that in all cases when the fine or penalty shall exceed ten dollars or where the punishment shall be imprisonment, there may be a trial by jury, to be conducted as in cases now triable in courts for the trial of small causes; the recorder shall also have power to cause any person or persons who shall be found guilty of a violation of the ordinances of the city, and who may refuse or neglect to pay any penalty imposed, to be committed to the county jail for any period not exceeding thirty days; and the recorder shall be present at the station-house or other place provided for him by the city council, at such hours every day as the council shall designate; and the recorder shall have the same powers in criminal matters within the territorial limits of the city as are possessed and exercised by justices of the peace of this state. Proviso.

1474. SEC. 33. That the mayor and any member of the council during his term of office, and any policeman of said city, shall have the power, on witnessing any breach of the peace or any violation of a city ordinance, to forthwith arrest and take into custody, without warrant, the offender or offenders, and to take said offender or offenders before the recorder of the city for a hearing. What officers may arrest without warrant.

1475. SEC. 34. That every conviction for violating a city ordinance had before the recorder, either with or without a jury trial, may be reviewed by appeal to the court of common pleas of the county in the same manner and upon the same terms as appeals are or may be taken from courts for the trial of small causes, and in case the judgment appealed from shall be imprisonment the said recorder or any judge of the court of common pleas may admit to bail the party appealing during the pendency of his appeal; but no judgment for the violation of any ordinance shall be reversed for any imperfection, omission, defect in or lack of form, nor for any error except such as shall or may have prejudiced the defendant in maintaining his defense upon the merits. Convictions may be reviewed on appeal to common pleas.

1476. SEC. 35. That the officers empowered to serve process issued by the recorder shall be, besides the constables elected or appointed within the city, the policemen of the city, and that said process shall be returned in the same manner, as far as circumstances may permit, as warrants in courts for the trial of small causes are returned, and the defendant or defendants named therein shall, if the recorder sees fit to adjourn the hearing of the charge made and so orders, enter into recognizance, as near as may be, in the manner directed in the courts for the trial of small causes, in the amount of the penalty named in the process or in proceedings brought for the recovery of the same, with such surety as may be approved by the recorder, unto the city, by its corporate name, for his or their appearance on the day to which said hearing may be adjourned, and in default of such appearance the said recognizance may be prosecuted and collected in the same manner as the same might have been if the said recognizance had been taken in a proceeding in courts for the trial of small causes. Policemen may serve process. Recorder may adjourn hearing and hold defendants to bail.

1477. SEC. 36. That the assessor, overseer of the poor and health inspector shall each hold office for the term of two years, and the said assessor, overseer and health inspector shall perform all the duties required of such officers by law in the several townships of this state and the ordinances of the city. Terms and duties of assessor and overseer of poor.

1478. SEC. 37. That the city attorney shall be appointed by the council; he shall hold his office for the term of one year, and shall perform such duties as the council shall by ordinance prescribe. Term and duties of city attorney.

1479. SEC. 38. That the city surveyors shall be designated from time to time by the council, and they shall give bonds in such penalty and upon such condition, and shall receive such compensation for the service they may render as the council shall by ordinance prescribe. Appointment and salary of city surveyor.

1480. SEC. 39. That the poundkeepers shall be appointed by the council, and shall hold their office for such term, and shall perform such duties Of poundkeepers.

in addition to the duties imposed upon them by any law of this state, as the council may by ordinance prescribe.

Of commissioners of appeals.

1481. SEC. 40. That the members of the board of commissioners of appeals shall be elected and shall hold office for three years; they shall perform such duties as are now or hereafter may be by law enjoined upon commissioners of appeals in cases of taxation.

Of chief of fire department.

1482. SEC. 41. That the chief of the fire department shall be elected annually on the first Monday in May in each year, and shall hold his office for one year from the first day of June next ensuing his election; the active firemen of the department shall alone be qualified to vote at such election; the election shall be held and conducted under such rules and regulations as the council shall by ordinance prescribe; *provided, however*, that this section shall not apply to any city having a population of ten thousand inhabitants.

Proviso.

Term, powers and duties of chief of police.

1483. SEC. 42. That the chief of police shall hold office for the term of three years, and shall be subject to removal for cause by a two-thirds vote of the city council; he shall be the executive head of the police department, and shall be responsible for its efficiency; all regular police officers shall first be nominated by him, and the city council shall then have power to appoint them; he shall have power to remove any officer so appointed for neglect of duty or conduct unbecoming an officer of the peace, and the cause for removal shall be stated in writing to the city council; he shall have power, with the written assent of the mayor, to appoint special officers to serve, at not more than three dollars a day each, upon special occasions when the regular force may be deemed inadequate to insure safety to public health and good order.

Board of excise commissioners, how composed.

1484. SEC. 43. That the board of excise commissioners shall consist of five members, three of whom shall be elected at the first city election held under this act; one member of the board shall be elected for one year, one member for two years and one member for three years; but no more than one member shall come from the same ward; and the voters at such election shall designate on their ballots the terms for which the several candidates for said offices shall be elected; thereafter annually one member of the board shall be chosen for three years; the three members thus chosen, together with the mayor, who shall be the presiding officer of said board, and the chief of police shall constitute the board; they shall have full power to regulate, license, or prohibit the sale or transfer of spirituous, vinous, malt or other strong or intoxicating liquors; *provided, however*, that no such license shall be granted to any person who is not a citizen of the United States; they shall have power to prescribe the terms and conditions upon which licenses for such purposes shall be granted, and to provide for the revoking and annulling of licenses for violation of such conditions; *provided, however*, that all such conditions shall be printed on the license; *and provided further*, that no license shall be granted unless the applicant shall first pay to the city clerk such license fee as may be required by any general law of this state, and if there be no general law, such fee, not less than fifty dollars, as may be fixed by the board; and if the application is rejected the deposit shall be returned; the mayor shall sign all licenses directed to be issued by the board; the board shall, upon the request of the council, render a statement of all licensed and unlicensed saloons, inns, taverns or restaurants existing within the city, together with a record of all the proceedings of the board.

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Powers and duties of.

Proviso.

Proviso.

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Term and duties of street commissioner.

1485. SEC. 44. That the city council shall have power to authorize by ordinance that there shall be appointed by the city council, with the mayor's approval, a street commissioner, who shall hold office for the term of three years, and shall be subject to removal for cause upon a two-thirds vote of the council, have supervision over all the streets, avenues, roads, sidewalks, public lanes and alleys, bridges, culverts and all public highways of the municipality and the repairs thereto, and perform such duties as may be required of him by the city ordinances relating thereto.

Of city physician.

1486. SEC. 45. That there shall be appointed by the city council, with the mayor's approval, in the month of May in each year, a suitable and

competent physician, resident of the city, to be city physician, who, when he shall have taken and subscribed the oath of office before the mayor, recorder or other officer entitled to administer such, shall be the medical adviser of the board of health and city council, and shall perform such duties as may be required of him by ordinances of the city council or the board of health.

Annual statement of receipts and expenditures to be published by council.

1487. SEC. 46. That the council shall, on the first day of April in each year, cause to be printed a full statement of all receipts and expenditures of every description for the year preceding, with all such further information as may be necessary for a full understanding of the financial concerns of the city, and that it shall be the duty of the city clerk to distribute such printed statements among the people of the city or to furnish a copy of such statement to every citizen applying for the same.

Contracts in which councilmen are interested to be void.

1488. SEC. 47. That all contracts in which any councilman shall be interested, either directly or indirectly, or in which any councilman may be surety for the faithful performance thereof, shall be null and void, and no member of the council shall become security for any public officer elected or appointed under this act.

How ordinances may be passed.

1489. SEC. 48. That no ordinance or by-law shall be passed by the city council unless the same shall have been introduced at a previous, special or stated meeting, and shall be agreed to by a majority of the members of the council; and no ordinance shall take effect until five days after it shall have been published in one or more newspapers of the city, and if there be none, in at least one newspaper published in the county and circulating in the city; *provided*, *however*, that no ordinance for opening, paving or macadamizing any street, avenue or public place, or for the construction of any sewer shall be passed or adopted unless it shall receive the votes of two-thirds of the members of the council.

When to take effect.

Proviso.

Purposes for which ordinances may be passed.

1490. SEC. 49. That the council may, by the title, "the mayor and city council of———, in the county of———," pass, adopt, alter, modify and repeal ordinances to take effect within the city for the following purposes: to manage, regulate, protect and control the finances and property of the city; to make and adopt an assessment map or maps whereby to describe lands assessed for taxes or improvements; to ascertain and establish the boundaries of all streets, highways, public lanes and alleys in the city; to regulate, clean and keep in repair the streets, highways, lanes and alleys, and to prevent and remove all encroachments, obstructions and incumbrances in and upon all streets, highways, lanes and alleys, sewers, drains and water-courses; to prescribe the manner in which corporations or individuals shall exercise any privilege granted to them in the use of any street, highway or alley or in digging up any street, highway or alley for any purpose whatsoever; to direct and regulate the planting, rearing, trimming and preserving of ornamental shade trees in the streets, parks and public places, and to authorize or prohibit the removal or destruction of such shade trees; to name and number the streets, houses and lots in the city; to provide for and enforce the removal of snow and ice from the sidewalks and gutters of streets, by the owners of land fronting thereon, and to provide that in case of neglect or refusal of or by the owner of any lot of land fronting on a public street or highway to remove snow or ice from the sidewalks and gutters in front of his lands, that the council may cause the same to be done at the expense of such owner, and that the cost and expense thereof, with interest thereon, shall be added to and shall form part of the taxes next to be levied and assessed upon such lands, and shall be and remain a lien upon such lands until paid; to regulate the use of streets, highways and public places by individuals, vehicles of every kind; to prevent and punish horse-racing and immoderate driving or riding in any street; to regulate and control the passage through the streets and public places of buildings and other large structures; to prevent animals of all kinds from running at large in the streets or public places, and for the impounding, sale or destruction of the same, and to regulate and prevent the driving of cattle or other animals in droves in or through any of the streets of the city; to prevent and prohibit any practice

having a tendency to frighten animals or persons passing in the streets; to regulate or prohibit all public performances and exhibitions for money; to prevent and suppress vice and immorality; to restrain or punish tramps, vagrants, mendicants and street beggars; to preserve the public peace; to prevent and quell riots, disturbances and disorderly assemblages; to restrain and suppress disorderly and gaming-houses and houses of ill-fame; to establish and regulate one or more public pounds, and to provide for the sale of animals impounded, and to fix the fees to be paid persons impounding animals, and the redemption fees to be paid; to regulate and prevent and to provide for the destruction of dogs running at large; to regulate or prohibit swimming or bathing in the waters of or bounding the city; to remove or destroy buildings that are dangerous to life; to regulate or prohibit the carrying on of manufactures dangerous in causing or promoting fire; to regulate or prohibit the manufacture, sale, keeping, storage or use of fireworks, gunpowder, camphene, kerosene, burning fluid, nitro-glycerine, dynamite or other inflammable or explosive materials; to raze and demolish any building or erection when necessary to prevent the extension of a conflagration, and to provide for the ascertainment and payment of just damages and compensation to owners of property destroyed in such cases; to regulate or prohibit the use of firearms and the carrying of weapons of any kind; to provide fire engines and such buildings for the use thereof as may be necessary; to establish a board of health, define its powers and duties, and provide for the protection and maintenance of the health of the city; to regulate the burial of the dead, prohibit interments within such limits as it may prescribe; to purchase land for public burial-places, direct the keeping and return of bills of mortality, and to establish such regulations for carrying the dead through the streets as the health and good order of the city may require; to license and regulate cartmen, porters, hack, cab, omnibus, stage and truck-owners and drivers, carriages and vehicles used for the transportation of passengers and merchandise, goods or articles of any kind, and to require the owners to mark vehicles in such manner as the council shall designate and to license and regulate auctioneers, common criers, pawnbrokers, junk-shop keepers, sweeps and scavengers, and to prohibit unlicensed persons from acting in such capacities; to license and regulate peddlers, hawkers and hucksters, and to require the payment of a license fee of not exceeding ten dollars in all cases, except as herein otherwise provided; and no license granted for any of the aforesaid purposes by any other authority shall be valid, except license granted by the governor to hawkers and peddlers; to fix the penalty where the same is not fixed or provided for by this act for the violation of any ordinance by this act authorized to be passed, which penalty shall be a fine not exceeding fifty dollars, and in case of non-payment thereof, imprisonment in the county jail not exceeding thirty days; to provide for, establish, regulate and control a fire department and to establish rules for the government thereof (whose members shall be exempt from military duty in time of peace, and from serving as jurors in courts for the trial of small causes), and to provide engines and other fire apparatus, and to designate the manner of appointing and removing officers and members of the fire department and to regulate their compensation; to provide for the government of the fire department and the care and repair of the engines and other fire apparatus, and for the purchasing of necessary supplies by the city council or a committee thereof or by a board of fire commissioners consisting of five members, to be appointed by the council, who shall hold office for one year, who shall receive no salary; and to further provide for the payment of the lawful debts contracted or incurred by such commissioners.

Council may provide for purchase of land and the erection of certain public buildings, sewers, &c., and issue bonds therefor.

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1491. SEC. 50. That the city council may by ordinance submit to the voters of the city, at an annual or special election, a proposal or proposals to purchase land and to erect thereon a city hall, jail, hospital, public lighting, or other municipal building or buildings; or to purchase land for public park purposes; or for the purchase of any sewer, water or gas,

or other lighting system existing, or that may hereafter exist within the city limits; and if at such election a majority of the voters shall vote in favor thereof, the city council shall be empowered to make such purchase, and if need be issue bonds of the city in payment thereof, as may be provided by ordinance.

May regulate use of streets by corporations.

1492. SEC. 51. That the council shall have power by ordinance to regulate the use of the streets of the city by electric or other street railway companies; to require such companies to lay and confine their tracks according to such grades of the street as may from time to time be established by the council; to keep that portion of the street lying between the rails paved and in good repair, also to keep the street to the extent of eighteen inches beyond the rails in good repair and on a level with the rails; to keep their tracks free from snow and ice and compel the removal of the same from the streets; and to provide a penalty not exceeding fifty dollars for every violation of such ordinance.

May regulate use of street dividing city from adjoining municipality.

1493. SEC. 52. That in case the boundary line between any city formed under this act and any other municipality shall be one of the extreme lines of a street or road, such street or road being wholly within such city, it shall be lawful for the council of such city to pass ordinances regulating the use of such street or road by the owners or occupants of property in such other municipality adjoining such street or road, and to provide penalties for the violation of such ordinance not exceeding ten dollars fine; and it shall be lawful for any constable or policeman of such city to execute any process issued by the recorder for the violation of any such ordinance within the territorial limits of such other adjoining municipality.

May establish a police force.

1494. SEC. 53. That the council shall have power by ordinance to provide for, establish, regulate and control a day and night police, and to regulate and define the manner of their appointment and removal, their duties and compensation; *provided*, that such police force (excluding officers) shall not exceed more than one policeman to every five hundred inhabitants; *and provided further*, that no policeman or police officer shall be removed except for neglect of duty, misbehavior, incompetency or inability to serve.

Proviso.

Proviso.

May pass ordinances on other subjects generally.

1495. SEC. 54. That the council shall have full power to enact and pass such and so many other ordinances or by-laws for the peace, good government, order, welfare and convenience of the city 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, and to fix a penalty for the violation thereof not exceeding a fine of fifty dollars or imprisonment in the city or county jail not exceeding ten days.

Purposes for which council may raise money by taxation.

1496. SEC. 55. That the council shall have power to pass ordinances appropriating and providing for raising by taxation moneys for the following purposes:

I. For lighting the streets of the city;

II. For the support of the police department;

III. For the maintenance of the fire department;

IV. For regulating, cleaning and keeping in repair streets, highways and sidewalks;

V. For additions or repairs to public buildings;

VI. For the relief of the poor and sick;

VII. For water for the extinguishment of fires;

VIII. For the payment of interest upon the debt of the city and such part of the principal as shall from time to time become due and payable;

IX. For any sinking fund required or deemed advisable to be raised;

X. For the general and incidental expenses of the city, including the printing and publication of minutes of council, ordinances and such other matters required by law to be published;

XI. For the support of public schools;

XII. For the protection and maintenance of the health of the city;

XIII. For the support of an emergency hospital for contagious diseases;

XIV. For drainage and the repair of public drainage systems; also for sewerage purposes in cities owning and operating public sewerage systems;

XV. To provide funds to meet any note, bond or other obligation of the city maturing in any year and not otherwise provided for by law or the ordinances of the city;

XVI. For regulating, maintaining and protecting public grounds and parks; and no appropriation shall be made or ordered for any other purpose, except by a majority of the voters of the city voting at an annual city election.

May contract for lighting of streets.

1497. SEC. 56. That the council shall have power to provide by contract for the lighting of the streets, avenues and public places of the city, in such places as they in their judgment may deem necessary.

May provide water-supply.

1498. SEC. 57. That the council shall have power to provide for a supply of pure and wholesome water to the inhabitants; and for extinguishing fires, by contract, either with private corporations or with adjoining municipalities owning or controlling water works; and the council shall have power to fix and determine the terms and conditions upon which private companies may lay their mains or pipes in the streets of the city.

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May borrow money in anticipation of revenues.

1499. SEC. 58. That the council shall have power to borrow money temporarily in the name of the city in anticipation of appropriated revenues not exceeding in amount one-half of such anticipated revenues.

May call special election to fill vacancy.

1500. SEC. 59. That the council shall have power at any time to direct a special election to fill any vacancy that may occur in their own body.

Shall appoint commissioners of assessments.

1501. SEC. 60. That the city council shall appoint three discreet persons, residents and freeholders of the city, to be commissioners of assessment, and who shall hold their offices for three years; the said commissioners shall make all assessments for improvements of every kind under this act; *provided*, that if any of the said commissioners shall be interested in the matter of any such assessments, the council shall appoint some discreet and impartial freeholder or freeholders, resident in said city, to act in regard to such assessment in lieu of the commissioner or commissioners interested therein as aforesaid; and every report of assessments made by commissioners of assessment shall be accompanied by the oath or affirmation of each commissioner making the same that he is not interested, directly or indirectly, in the matter of the assessment, and that he has performed his duties in relation thereto honestly, faithfully and impartially, to the best of his ability, skill and understanding, which oath or affirmation the clerk of said city is hereby authorized to administer; and the first commissioners appointed under this act shall determine among themselves by lot which of them shall serve for one, two and three years respectively, and thereafter annually one commissioner shall be appointed to serve for the full term of three years.

Proviso.

1502. SEC. 61. That the council shall have power and they are hereby authorized by ordinance—

May lay out and extend streets.

To lay out, open, straighten, widen and extend any street, avenue or highway, or any part or section thereof, and to take and appropriate for such purpose any necessary lands and real estate upon making compensation to the owners thereof as hereinafter provided;

And improve and repair them.

To provide for grading and altering the grade of streets and avenues in the city, and filling, macadamizing, guttering, curbing, bridging, planking, graveling, paving and repairing the same;

And construct sewers and drains.

To make and adopt a general plan of sewerage and drainage for the city or any section thereof, conformably to which all public and private sewers, drains, receiving basins and all other appurtenances of sewerage and drainage shall be made;

To provide for the construction, maintenance and extension of a proper sewerage system for the city, by contract, either with private corporations or with adjoining municipalities owning and operating a sewerage system; and the council shall have power to fix and determine the terms and conditions upon which private sewerage companies may lay their mains and pipes in the streets of the city.

May levy taxes for sewerage purposes.

1503. SEC. 62. That in any city incorporated under this act having a sewerage system which is owned and operated by the city in its corporate capacity, the city council shall have power by ordinance to levy annually

a special tax for sewerage purposes, and to appropriate the money derived therefrom for the construction, extension and repair of the public sewerage system; to provide for taking land and real estate for building the same and for acquiring an outlet for sewers over and through lands in adjoining municipalities; *provided*, that the consent of such adjoining municipality and of such other municipality (if any) as may in any manner be affected by such outlet shall be to that end first obtained; *provided, however*, that no ordinance for any of such purposes shall be passed except in the manner herein stated and unless it shall receive the votes of two-thirds of the members of the city council.

Proviso.

Proviso.

1504. SEC. 63. That streets or sections of streets shall be laid out, opened, straightened, extended, widened or otherwise changed as to their boundaries, in the following manner and not otherwise: a petition, in writing, signed by the owners of one-sixth of the property fronting on the improvement desired, shall be presented to the council, setting forth accurately the improvement desired; if the council shall favor the petition the same shall be referred to the commissioners of assessment and a city surveyor not interested in such improvement, who shall thereupon make a map of such improvement, showing the real estate to be taken therefor, and all the property which in the judgment of said commissioners, will be specially benefited thereby, designating each lot and parcel on said map by a letter or number; said commissioners shall also ascertain, so far as practicable, the name of the owners of said real estate to be taken and property to be benefited, and the interest of each of the owners of real estate to be taken, and when such names or estates are not known they shall so report; they shall also appraise the value of the interest of each known owner of real estate to be taken, and the damage to be done to such owner by taking the same; and where the estates in any plot of land are unknown, they shall appraise the value of or the damage done to the fee-simple; said commissioners shall also estimate all other expenses likely, in their judgment, to attend the completion of the improvement; said commissioners shall also estimate the amount likely to be realized from the sale of any buildings, or parts of buildings, required to be taken on account of said improvement, and shall so determine the probable net cost of making the improvement; this probable net cost they shall then assess upon the lands to be specially benefited, in proportion to the benefit to be received; thereupon they shall, under their hands, make a report of the facts ascertained and of the appraisements, estimates, determinations and assessments made by them concerning said improvement, and shall file such report and their map with the clerk of the city; thereupon the said clerk shall cause a notice of the filing of said map and report to be printed in one or more newspapers of the city, or, if there be none, in a newspaper published in the county and circulating in the city, for the period of two weeks, which notice shall contain a general description of the improvement intended, of the land to be taken, and of the land to be assessed therefor, and shall state the time and place when and where the council will meet to hear and consider any objections to said report or to the improvement, which may be presented in writing; said clerk shall also, within said period, cause notices to the same effect to be posted at points not over three hundred feet apart along the whole line of said improvement; the time appointed for hearing such objections being not less than ten days after the expiration of said period of two weeks, and shall also, within the said period, serve a copy of such notice upon resident owners of real estate affected thereby; but the omission of the clerk to serve such notice shall not invalidate any of said proceedings; and all objections at such time and place, presented in writing, the council shall consider and adjudicate upon, and the awards or assessments made in said report may be corrected accordingly; a copy of which corrections, signed by the chairman of the council, shall be filed with the said clerk within twenty days after the expiration of said period of two weeks; if the said council shall then determine to make said improvement, notwithstanding any objections to the same, the said council shall confirm said awards, with the corrections, if any, and pass

How streets shall be laid out, extended, &c.

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Benefits and damages shall be appraised.

Expenses, &c., shall be estimated.

Cost shall be assessed upon lands benefited.

Report shall be advertised.

Meeting shall be held to consider objections.

Time for holding meeting shall be advertised and notice served upon owners.

Corrected report shall be filed.

Council shall confirm awards.

an ordinance ordering said improvement to be made and completed in such manner as said council may direct, under the supervision of said commissioners of assessments; *provided*, the said council shall not proceed to make any such improvement if the owners of the property subject to more than one-half of the assessment for the improvement shall remonstrate against the same being made; the said council shall also pass a resolution directing the several sums awarded to be paid to the persons to whom the awards are made for real estate taken and damages sustained in making said improvement, and upon the passage of such resolution the fee-simple of said real estate to be taken shall be vested in the city; *provided*, that where the commissioners shall have reported the name or estates of the owners of any plot as unknown, the said resolution shall direct the sum of the award on account of such plot to be paid to the owners thereof, when and as their interest may appear, and any such owner or person interested in said land may, by bill in chancery, according to the practice of that court, have the said sum distributed or in whole or in part paid over to him, as law and justice may require; after the completion of said improvement the said commissioners shall ascertain and determine the actual net cost thereof, and shall assess, as hereinafter provided, such actual net cost upon the lands specially benefited in proportion to the benefit received.

Proviso.

Proviso.

How benefits and damages shall be adjusted.

1505. SEC. 64. That whenever, by the report and map of the said commissioners, corrected as aforesaid, it shall appear that an award has been made to any person for property taken or damages sustained and that such person is also assessed for benefits received on account of the same improvement, then if the assessment equal or exceed the award, no payment shall be made on account of such award; and if the award exceed the assessment, only so much of the award as is in excess shall be paid, and the resolution of the council ordering the awards to be paid shall be framed accordingly; and when the amount to be assessed shall be finally determined, such amount shall be set off against the amount of the award unpaid; and if the amount of the award unpaid be in excess, the assessment shall be canceled, and such excess only shall be paid to the person to whom the award is made; and if the amount of the assessment be in excess, the award unpaid shall be canceled, and such excess only shall be a lien upon the property assessed; the rest of the award or assessment as the case may be being also canceled.

Proceedings in cases of dissatisfaction with award.

Proviso.

Proviso.

Proviso.

1506. SEC. 65. That whenever any person who shall have presented objections as aforesaid, to an award, shall be dissatisfied with the determination of the council, thereupon such person may commence an action on contract against the said city in the circuit court of the county or in the supreme court of this state (provided that the trial shall be had in the county in which such city is located), which action shall proceed in all things as if such city had, upon taking the real estate required for the said improvement, agreed in writing to pay therefor the value thereof and the damage done by taking the same; and if in said action the plaintiff shall recover more than the amount awarded as aforesaid, he shall recover his taxable costs according to law; and if he shall not recover more than the amount awarded, then the defendant shall recover his taxable costs against the plaintiff and shall be entitled to have them deducted from the amount recovered by the plaintiff, and execution shall issue only for the balance, the assessment (if any) against the plaintiff being also deducted from the amount of the judgment; *provided, always*, that no such action shall be brought by any person who may have received payment of the amount awarded, nor unless notice that such action will be brought be filed with the clerk of said council within sixty days after the confirmation of the award, nor unless such action be commenced within six months after such confirmation; *provided, further*, that the judge of the said circuit court may, upon petition, for good cause shown, and upon such terms as he may direct, dispense with either or all of the provisions in the last proviso contained.

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1507. SEC. 66. That any street or section of a street may be graded, flagged, macadamized, paved, curbed, guttered or otherwise improved, as hereinbefore provided, in the following manner, namely, on the petition in writing to the council by the owners of one-sixth of the lands fronting on the street proposed to be improved, the council shall, by resolution, direct the city clerk to advertise such application or petition and the notice hereinafter provided for, for at least two weeks, once in each week successively, in one or more newspapers of the city, or if there be none, in one or more newspapers published in the county and circulating in the city, and to post copies of the said petition and notice in five public places in the city, designated by the council, at least ten days prior to the time fixed for the hearing of objections to such improvement; the clerk shall also publish and post as aforesaid, with the petition, a notice signed by him, stating that objections in writing to said proposed improvement shall be filed with him, and designating the time and place when and where the city council will meet to consider such objections, which time shall not be less than ten days after the date of the first publication of such petition and notice as aforesaid; and the said clerk shall also serve like notice on the owners of property residing along the street or section of street so proposed to be improved, at least five days before the time designated in said notice; *provided, however*, that no assessment shall be set aside or affected by reason of the failure of said clerk to serve such notice; and at or before the time named in such notice the said clerk shall file in his office affidavits showing that such petition and notice have been published and posted as herein required; at the time named in such notice the council shall proceed to consider such objections as shall have been presented, and if it appear that the owners of a majority of the land fronting on such proposed improvement have objected thereto, such improvement shall not be made, and all costs and expenses incurred in such proceedings shall be paid by the petitioners, to secure which the council shall in all cases require a deposit of twenty dollars before receiving any petition; and in case the owners of a majority of the lands fronting on the proposed improvements have not objected thereto, the council may, in its discretion, determine not to make such improvement, in which case the deposit made by the petitioner or petitioners shall be returned to him or them; and the defeat of any ordinance for such improvements, introduced before the council, shall be conclusive as to the determination of the council not to make such improvement; at any time after the time named in said notice of objections the council may proceed to pass an ordinance for such improvement, and such ordinance shall be valid if it describes in general language the improvement required to be made and done, and it shall not be necessary to state therein any other matter or thing connected with said improvement; the city clerk shall publish and post such ordinance in the same manner and for the same time he is required to publish and post the petition for the improvement described therein; and he shall file in his office an affidavit showing that such ordinance has been duly published and posted; at any time after the passage of such ordinance the council may require the clerk to advertise for proposals for doing the work and furnishing the materials necessary for such improvement, in one or more newspapers of the city and in such other newspapers as shall be designated by the council, which proposals shall be presented in such form and manner and under such regulations as the council shall prescribe; upon the coming in of such proposals the council may enter into contract with the lowest responsible bidders on the terms of their proposals; *provided, however*, that the council may reject all bids if they deem it for the interest of the city so to do, in which case they shall again advertise for proposals and shall proceed in all things as if no proposals had been offered; and the council shall require the person or persons so entering into contract with the city to give bonds with ample freehold security for the due performance thereof.

Proceedings for grading or improving streets, &c.

Proviso.

Proviso.

1508. SEC. 67. That all proceedings for the opening, widening, extending, grading, regulating and otherwise improving streets and avenues which,

Pending and unfinished improvements shall be completed.

may be pending and remain unfinished and incomplete at the time of incorporation under or adoption of this act by any town, borough, township or part thereof, shall be proceeded with and completed under the laws in force at the time such proceedings were commenced, and as if such town, borough, township or part thereof had not become incorporated under this act.

Proceedings for extending sewer service.

1509. SEC. 68. That in cities having a sewerage system which is owned and operated by the city in its corporate capacity, sewers may be built and constructed in any of the streets of the city under the control of the city authorities on the petition of owners of one-sixth of the land adjoining the proposed route of the sewer; and the proceedings, after receiving such petition, shall be in all respects the same as are hereinbefore set forth for flagging and grading of streets, and all the provisions of this act relating to flagging and grading of streets shall be applicable to proceedings for the construction of sewers, except as modified in and by this section.

Inspectors over public works may be appointed.

1510. SEC. 69. That the council may appoint one or more inspectors over the work and materials on any street or sewer or sidewalk improvement, and may fix the compensation; the amount of such compensation shall be included in and form part of the cost of the improvement.

Payment for street or sewer work not to be made until opportunity for objections to the same shall be given.

1511. SEC. 70. That before the council accept any work on any sewer or street improvement, or on any final payment be made to the contractor, the council shall publish as aforesaid a notice stating when the council shall meet to receive and consider objections in writing, the work and materials done and used in such improvement, and if any such objections shall appear to be well founded, the council shall take such action thereon as in their judgment the interests of the city shall require.

Lands may be condemned for sewer construction.

1512. SEC. 71. That where it shall be necessary in the construction of any public sewer to take or use private property for that purpose, the council shall have power to provide, in the ordinance for the building or constructing of any such sewer, for the taking of such private property as is necessary; for that purpose the damages and awards to be made for lands so taken shall be determined and made by the commissioners of assessment, who shall report the same to the council, and thereafter the proceedings shall be the same in all respects as are hereinbefore provided for opening of streets.

Governing body may contract with adjoining municipality for sewer outlet.

1513. SEC. 72. That where any city shall be so situated that it shall have no immediate outlet for sewerage, except through adjoining municipalities or by connection with sewers existing or contemplated to be built in adjoining municipalities, it shall be lawful for the city council of the city and the governing body of such adjoining municipality to enter into contract for the payment of the sum in gross by such city for the right to connect with any sewer or sewers in such adjoining municipality, and the amount of such contract price shall be included in the costs of making the sewer in and through such city which it is proposed so to connect with the sewer in the adjoining municipality, and shall be assessed in the manner hereinafter directed as if such contract price were portion of the cost of wholly constructing the sewer within the territorial limits of the city.

Council may issue improvement certificates.

1514. SEC. 73. That the council shall have power to issue improvement certificates, payable within one year or less with interest to the amount of eighty per centum of the work done on any street, sewer or other improvement when certified as correct by the engineer in charge of the work; and when the contract is fully completed and the work is accepted, the city council may issue a certificate for an additional fifteen per centum of said work done, and in not less than three nor more than six months after the date of the acceptance of the work may issue a final certificate for the balance due, unless some errors or defects in the work shall have appeared, in which case the certificate shall be withheld until the defect or errors are rectified to the satisfaction of the council.

Cost of improving streets shall be assessed upon lands benefited.

1515. SEC. 74. That the cost and expense of widening, opening or extending, grading, curbing, flagging or macadamizing any street, or constructing or extending any sewer, and after the completion thereof, the whole cost of any such street or sewer or other improvement shall be ascertained

and determined by the commissioners of assessment, and such cost and expense shall be assessed upon the lands and real estate especially benefited by the improvement in proportion to the benefit received; the commissioners shall file their report with the city clerk, which shall be accompanied by a map showing what lots and parcels of land are benefited by the improvement, the amount assessed as benefits upon each lot or parcel of land, and the names of the owners of the several lots and parcels of land assessed, so far as the commissioners can ascertain the same; but no assessment shall be deemed defective by reason of any mistake in the names of the owners of lands assessed, or omitting the said names or any of them; the clerk shall publish and post notices in the same way and manner hereinbefore prescribed for publishing and posting the petition for the improvement and its accompanying notice, stating that the map and report of the commissioners have been filed in his office, and that the council will consider any objections to such report, map and assessment presented in writing on or before a day named in such notice to be fixed by the city council, which day shall be at least ten days after the first publication of such notices; after considering such report, map and assessment, and such objections as may have been presented against the same, the said council may confirm the said report, map and assessment, or if deemed necessary may return the same to the commissioners for revision and correction, who shall return the same corrected and revised without unnecessary delay; and thereafter the council may, without further notice, confirm the said report, assessment and map.

Clerk shall publish and post notices.

Council may confirm or reject report.

1516. SEC. 75. That no certiorari, injunction or other writ or process shall be allowed or granted to set aside any ordinance for any improvement after the contract therefor shall have been awarded by the council of the city, and no certiorari, injunction or other writ or process shall be allowed or granted to set aside any assessment made for any sewer or street improvement of any kind after thirty days shall have elapsed from the date of the confirmation of such assessment by the council of such city.

When process to set aside ordinance for improvements shall not issue.

1517. SEC. 76. That the city shall not issue any bond or bonds for any purpose whatever unless the proposal for the same shall first be recommended by the mayor to the city council, then be approved by a majority vote of the said council, and then submitted to the voters of the city at an annual or special election, and a majority of the votes cast at such election shall have voted in favor thereof; *and provided, further*, that it shall not be lawful for the city to issue its corporate bond or bonds for any sum in the aggregate exceeding six per centum of the taxable value of the property rated for assessment; *provided, however*, that the provisions of this section shall not apply to any city incorporated under this act having a population exceeding twelve thousand inhabitants, and all cities to which this act shall apply now or hereafter having twelve thousand or more inhabitants, shall have the like power and authority as to the issuance of bonds, for any purposes, as that conferred upon cities of the second class in this state by any general law, now or hereafter applicable to such cities, the same to be issued in like manner as the same may be issued by such cities or in the manner and form provided for the issuance of bonds or other obligations, or authorizing the issuance of the same, under the provision of this act.

Conditions upon which bonds may be issued.

Proviso.

Proviso.

1518. SEC. 77. That whenever the mayor and city council of any city incorporated under this act are authorized by the vote of the people to issue any bonds of the city, said bond or bonds shall bear the name of the improvement or purpose for which issued; said bond or bonds may be either registered or coupon, or both, as may be determined by the city council; they shall be signed by the mayor and city clerk, with the corporate seal affixed and countersigned by the treasurer; they shall be made payable in not less than five years or more than thirty years from the date thereof respectively, and shall be of such denominations and bear such interest at not more than five per centum per annum as may be determined by the city council; the interest shall be payable semi-annually, and the bonds may be disposed of at public or private sale under such terms and conditions as the council may direct, at not less than par; and

Terms and conditions of bonds.

all moneys derived from the sale of the same shall be used solely for the purposes for which the same were issued; further, that the interest on said bond or bonds shall be raised each year by taxation, together with not less than three and one-half per centum of the principal, as may be determined by the city council; said portion of the principal to constitute a sinking fund for the payment of the principal.

Interest and principal shall be raised by taxation.

Council shall provide mode of paying interest.

1519. SEC. 78. That the city council shall prescribe by resolution or ordinance the manner of payment of all interest that may fall due on any city indebtedness, whether the same be interest on bonds, registered or coupon, or upon any other class or character of indebtedness.

What moneys to be paid into incidental fund.

1520. SEC. 79. That all moneys received for licenses, and all other moneys received and not specifically appropriated, shall be paid into the incidental fund.

Unpaid taxes and assessments shall bear interest.

1521. SEC. 80. That all taxes and assessments in such city shall bear interest at the rate of seven per centum per annum from the time the same became due and payable.

Taxes and assessments shall be a first lien.

1522. SEC. 81. That all taxes and all assessments heretofore or hereafter levied, assessed or made upon any lands, tenements or real estate, situate in such city, shall be and remain a lien thereon until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereof; and if the full amount of any such tax or assessment shall not be paid and satisfied within such time as shall be limited and appointed by the council for the payment thereof, it shall and may be lawful for the council to cause such lands, tenements or real estate to be sold at public auction for the shortest term for which any person will agree to take the same and pay such tax or assessment, or the balance due thereof remaining unpaid, with the interest thereon, and all costs, charges and expenses, and to execute under the common seal of said city a declaration of such sale to be signed by the chairman of the council and the city clerk, and to deliver the same to the purchaser, and such purchaser, his executors, administrators or assigns, shall by virtue thereof, lawfully hold and enjoy the said lands, tenements or real estate for his and their own proper use against the owner or owners thereof, and all persons claiming under him or them, until said term shall be completed and ended; *provided*, the said council shall first have caused said sale to be advertised for at least two months in one or more newspapers published in the city, or, if none, then at least in one newspaper published in the county and circulating in such city, and also by advertisements put up in at least five public places in such city, which advertisement shall describe the said lands, tenements or real estate, and specify the amount of assessment or tax; and the recitals in such declaration of sale shall be evidence of the assessment, advertising and sale; *and provided, also*, that the purchaser shall not be entitled to possession of lands so purchased until the period herein limited for redemption shall have expired; *and provided, also*, that the lands, tenements or real estate so sold may be redeemed by the owner, mortgagee, occupant or person interested therein, or by any other persons, or in behalf of the owner, mortgagee or claimant of such lands, tenements or real estate, at any time within two years after the sale for either taxes or assessments, or for both, by paying to the treasurer of the city for the use of said purchaser, the purchase-money, together with any other sum paid for tax or assessment, which the said purchaser may have paid, chargeable on such lands, tenements or real estate and which he is hereby authorized to do, with interest thereon at the rate of fifteen per centum per annum, in addition thereto; and the certificate of the treasurer of the city, stating the payments, and showing what lands, tenements or real estate such payment is intended to redeem, shall be evidence of such redemption; any mortgagee shall have power to redeem at any time until the expiration of the six months' notice therein specified; no mortgagee whose mortgage shall have been duly recorded before sale for any tax or assessment shall be affected by such sale until six months' notice, in writing, shall have been given to him, either personally, or if not to be found in said city, then such notice shall be deposited in the post-office in said city, directed to him at his last known place of residence

Proceedings for sale of lands.

Proviso.

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(or at the post-office nearest thereto), but nothing therein contained shall be so construed as to impair the lien created by such tax, assessment or sale; *and provided*, the same term of time for which any lands, tenements or real estate so sold as aforesaid shall not commence, nor shall said purchaser or those claiming under him have a right of possession to said lands, tenements or real estate until the two years limited for the redemption of the same shall have expired, and the said purchaser or those claiming under him shall, at the expiration of the time limited in such declaration of the sale, quit and surrender the said lands, tenements or real estate in as good state and condition as when he entered thereon, natural wear and accidents excepted; *provided, also*, that the said sale may be adjourned or postponed from time to time, or suspended, as the council or their committee, appointed to attend to said sale, may direct; *and provided*, that if at any sale of lands, tenements or real estate, for assessment or taxes, the whole or any part thereof shall remain unsold for want of purchasers, then it shall be lawful for the said council or said committee to adjourn sale not less than thirty days nor more than sixty days; twenty days' notice at least, by publication for two weeks and posting, shall be given as aforesaid of the said adjourned sale; and if, at such adjourned sale, there shall be no purchasers for said lands, tenements or real estate, or for any part thereof, then it shall be lawful for the treasurer of the said city to purchase the said lands, tenements or real estate for any term not exceeding one hundred years for the benefit of the city, subject to the same redemption as hereinbefore provided for; *provided, also*, that all moneys paid for the redemption of said lands, tenements or real estate as aforesaid, together with all taxes and assessments paid by any mortgagee or judgment creditor, shall be a lien upon said lands, tenements or real estate for the amount so paid, with interest at the rate of seven per centum per annum, and such lien shall have precedence over all other liens on said lands, tenements or real estate; *provided, further*, that a complete record of all taxes and assessments shall be kept in the city clerk's office, which record shall contain the time when such assessment and taxes were laid, the time when they were paid (and if the property has been sold therefor), the time of said sale and to whom sold, and if redeemed, when and by whom; it shall be the duty of the city clerk to enter in a book to be called "record of sales," a minute of all declarations of all sales, and to give certificates of search in relation to liens to any person or persons applying for the same, and to cancel such declarations when the property for which they were given shall be redeemed, on the certificate of the city treasurer of such redemption, and to file such certificate in the said clerk's office; it shall be the duty of the treasurer to make out two certificates of all property redeemed, one for the person redeeming and one to be filed in the said clerk's office; it shall be lawful for the council of said city to sell, assign and transfer any declaration of sale or any term in lands, purchased for the benefit of said city as aforesaid, or any portion of a term, for such price as said council may think proper.

Proviso.

Proviso.

Proviso.

Proviso.

Proviso.

1523. SEC. 82. That the assessor shall levy a tax upon every person who owns or has the care of any dog, male or female, as follows: one dollar for each male dog, and three dollars for every female dog, in lieu of the state law, which tax shall be appropriated to the support of the school.

Dog tax authorized.

1524. SEC. 83. That the assessor shall complete his assessment and present his books to the council for examination by the third Monday in September annually, and the council shall complete their examination of the same by the first Monday in October; immediately hereafter the collector shall give notice as required by section ten of the tax act, and within thirty days thereafter the collector shall make the demand and give the notice as required by section eleven of the tax act, and the day fixed by him for the payment thereof shall not be later than December twentieth.

When tax assessment shall be completed and collector shall make demand for taxes.

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Property of school districts shall become property of corporation.

1525. SEC. 84. That all the property, real and personal, of the several school districts existing within the limits of any city, borough, township or part thereof before its incorporation under the provisions of this act, shall, upon such incorporation, become and be the property of such incorporated city, and shall be held in its corporate name, and the several obligations, contracts and debts of said previously-existing school district shall be assumed by and shall become and be the obligations, contracts and debts of said incorporated city, and that the board of education shall possess and exercise all the powers and perform all the dutes by law vested in or imposed upon the trustees of school districts; they shall also organize annually by choosing a chairman and a clerk, and may establish schools and provide for their government and shall keep all school property in good repair; they shall define and fix the duties and compensation of their clerk, who shall also perform all duties enjoined by law on district clerks; *provided*, that no property shall be bought or building erected by the said board unless a majority of the voters of the city voting at an annual or special city election shall have voted an appropriation for that purpose; in case any appropriation for the purchase of land and the erection of a school building shall be voted by the electors of the city at any city election, the council shall issue bonds in the corporate name of the city for the amount of such appropriation in such denominations as they shall deem proper; such bonds shall be designated "school bonds," and be issued as herein provided; the proceeds of the sale of said bonds shall be held by the city treasurer, and shall be paid out by him on the warrants of the board of education; at any time after an appropriation is voted as aforesaid, the board of education may purchase the necessary land and enter into contract for the erection of a school building thereon, the title to which property shall be vested in the city by its corporate name.

Board of education shall exercise powers of school trustees.

Proviso.

Council shall issue bonds for school purposes.

Board of assessment to assess benefits for street improvements. Proceedings prescribed.

1526. SEC. 85. That it shall be lawful for the city council to provide by ordinance that where any street in such city shall be improved by being guttered, curbed, macadamized or paved, in pursuance of the authority conferred by this act, for the board of assessment to ascertain as in this act provided the entire cost of making the improvement, and for them to apportion such entire cost upon the lands and among the owners along the lines of the street or section improved, pro rata according to the number of lineal feet upon the lines of such street or section in the tracts or lot of the several owners respectively, having concern as to the actual benefit which such improvement will confer upon the several owners assessed, and providing for notice to be given to the owners, of such assessment, and of a time and place for hearing objections thereto, at which time the whole sum apportioned to any owner may be paid into the hands of the receiver of taxes; after said meeting it shall be lawful to provide in said ordinance to issue bonds of the said city made and executed as shall be provided in said ordinance, to an amount sufficient to pay the balance of the cost of such improvement; said bonds shall be payable in not exceeding ten years from their date, shall bear interest at not exceeding six per centum per annum, payable semi-annually, and shall not be sold for less than par; after such meeting it shall be the duty of such of the board of assessment to apportion the entire amount of the bonds so issued among the owners and upon the lands along the lines of the street or section improved, upon the same basis as the original apportionment of cost, excepting the land of the owner or owners who shall have paid as aforesaid; said apportionment shall be delivered to the city clerk or other officer provided in such ordinance, and shall be by him recorded and shall be competent evidence of such apportionment; it shall be the duty of such officer, and shall be stated in said ordinance, in each year, in the month of May, to ascertain the amount of interest which will fall due on said bonds on or before the time fixed by law for the payment of taxes in the next succeeding year; and to certify the same together with one-tenth of the entire principal of the bonds issued to the assessors of the city whose duty it shall be to assess the same upon the basis of the apportionment of bonds, and upon the property embraced in said apportionment, in the name of the

Bonds may be issued to pay balance of cost of improvement.

Clerk shall record apportionment and certify amount of interest and principal falling due.

Assessors shall assess the same.

then owner thereof; the said assessment shall have the same force and effect, and be collected at the same time and in the same manner, as the other taxes collectible by law within said city for county and city purposes; but until the actual levy of such assessment, neither the liability to assessment, in this section created or created under and by virtue of any other provision of this act, nor the apportionment nor record thereof, shall be held or construed to create a subsisting incumbrance upon the title to the lands embraced in said apportionment; and all moneys collected under an ordinance adopted as herein provided, or under the authority conferred by this section, are hereby pledged to the payment of the principal and interest of the said bond and shall be used for no other purpose.

Assessments shall be collected as other taxes are.

An act providing for the incorporation of cities.

Approved March 22, 1895. P. L. 1895, p. 551.

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29V-599
34V-623
30V-201

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38V-604

1527. SEC. 1. That the inhabitants of any district lying wholly in one county, having a population exceeding five thousand, not including any territory already within the limits of any incorporated city or town, may become a body corporate by the name and title of the city of (specifying the name to be borne by such city), whenever a majority of the legal voters resident in such district, voting at an election to be held as hereinafter provided, shall so decide.

Any district having 5,000 inhabitants may become a city.

1528. SEC. 2. That whenever a petition in writing, setting forth the boundaries of a district which it is proposed to incorporate as aforesaid, and the name proposed therefor, signed by at least fifty freeholders resident in such district, shall be presented to the chairman of the township committee of the township in which such district, or the greater part thereof, is located, such chairman shall call a meeting of the township committee of such township, or a joint meeting of the township committees of the townships in which such district lies, if it lies in more than one township, at some convenient place within such district; notice of the time and place of such meeting shall be twice published in a newspaper circulating in such district; if at such meeting, or at any meeting to which the application may be adjourned, complaint is made by any landowner, in or near such district, that in laying out such district, territory has been unreasonably included or excluded, and such committee or committees are satisfied, after hearing such complaint, that the same is just, and that the boundaries ought to be changed, such committee or committees may make such changes in the boundaries as will, in their opinion, secure the best results from such incorporation to persons and property to be affected thereby; and shall thereupon order an election to be held within such district (as changed by them, if changed), to decide whether such district shall become incorporated as a city under the provisions of this act; such order shall prescribe the day and place or places of holding such election, the hours of such day, not less than ten, during which the polls shall be open, and any other regulations respecting such election as they may deem proper; if more than one voting place is designated, then such committee or committees shall divide such district as equally as may be into convenient voting districts for such election, and the election officers last appointed for the election district in which any voting place is, shall hold and conduct the election so ordered.

Proceedings of township committee in respect thereto.

Township committee may fix boundaries and order an election.

1529. SEC. 3. That notice of such election shall be given by advertisement, published in one or more newspapers published in or near such district, and circulating therein, at least once in each week for two weeks successively, and by printed notices posted in at least one hundred conspicuous places therein, at least fifteen days next preceding the time appointed for such election, which advertisements and notices shall specify the time, place or places and the object and purpose of holding such election.

Notice of election shall be advertised and posted.

1530. SEC. 4. That any election held under the provisions of this act shall be by ballot, and shall be held and conducted, and the votes canvassed and counted in the manner provided by law for conducting elections

Election shall be conducted as prescribed by existing law.

and canvassing and counting votes at town or local elections held in such township or townships; the ballots shall contain the words "for incorporation as a city under the act entitled 'An act providing for the incorporation of cities,'" or "against incorporation as a city under the act entitled 'An act providing for the incorporation of cities;'" if such election be at the same time and place or places as a general, township or municipal election, then a separate box shall be provided to receive the votes on the question of incorporation; if a majority of the votes cast at such election be in favor of incorporation as a city under this act, then within five days thereafter a certificate of the result of such election, signed by the chairman of the township committee who first called a meeting in pursuance of the petition and attested by the clerk of the same township, together with certified copies of the petition, order for election and statement of the board of canvassers or election officers who canvassed the vote, and proof by affidavits that due notice of such election was given, shall be filed with the secretary of state, and from and after filing the same the inhabitants of the district aforesaid, in which such election was held, shall be a body politic and corporate under the name of the city of (specifying the name designated in the petition) and by such name and title shall have perpetual succession, sue and be sued, prosecute and defend in all courts 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 the city.

Result shall be certified and filed.

Township committee shall divide corporation into wards.

1531. SEC. 5. That it shall be the duty of the chairman of the township committee to whom the petition for an election on the question of incorporation was presented, as provided in section two of this act, within ten days after filing the certificate of the result of such election with the secretary of state, to call another meeting of the township committee or committees which ordered such election, at some convenient time and place within the district which has voted as aforesaid to incorporate under this act; and such committee or committees shall, at such meeting or a subsequent meeting to which the matter may be adjourned, divide such city into three or more wards and fix a time, not less than thirty days after such division into wards, for the first city election under this act; each ward shall consist of contiguous territory and contain as nearly as possible an equal number of inhabitants; such division into wards shall continue until changed by the city council after a United States or state census; during the year following a United States or state census (but at no other time) the city council may by an ordinance passed by a two-thirds vote of all the members thereof, change the division into wards; but such ordinance shall not be passed except at a meeting held at least a week after such ordinance shall have been introduced and read.

New city to be separate from township.

1532. SEC. 6. That any city incorporated under this act shall be entirely separate from and independent of the township or townships from whose territory it was taken; all lands and real estate belonging to any of such townships located within said city shall thereafter be the property of the city; and all other lands and real estate belonging to said townships shall be and remain the property of the township in which it was located; all property, debts and obligations of such township or townships at the time of such incorporation shall be equitably divided between the city and such townships, regard being had in making such division to the value of the lands and real estate which shall have fallen to each respectively; if the city council and township committee or committees cannot agree on such division, then, on application of either to the court of common pleas of the county, such court shall appoint three commissioners, not inhabitants or property-owners in such city or township or townships, to make such division, and shall make such rules and orders with respect to the proceedings of such commissioners as may be just and proper; the report of the commissioners, or a majority of them, under their hands, shall be final and conclusive unless an appeal be taken within thirty days after such report shall be filed in the county clerk's office; should such appeal be taken the court of common pleas shall review the decision of the com-

Public property shall be divided.

missioners and reverse, modify or affirm the same as shall appear to be just.

1533. SEC. 7. That there shall be elected at the annual city election in each city incorporated under this act a mayor and a city council, consisting of one councilman from each ward, chosen by the electors thereof, and such other officers as may be provided by law, and all cities incorporated under this act shall be governed by the laws of this state relating to and regulating the government of cities.

City officers shall be elected annually.

12. MISCELLANEOUS ACTS.

An act in relation to cities incorporated within the limits of townships but not set off therefrom.

Approved March 1, 1877. P. L. 1877, p. 38.

1534. SEC. 1. [Amended by Sec. 1535, *post.*]

Amendatory act.

Approved March 4, 1878. P. L. 1878, p. 44.

1535. SEC. 1. That section one of an act entitled "An act in relation to cities incorporated within the limits of townships but not set off therefrom," approved March first, one thousand eight hundred and seventy-seven, which reads as follows [see P. L. 1877, p. 38], be amended to read as follows:

[That all cities in this state incorporated within the limits of townships, but set off therefrom by territorial boundaries, and which, by their charters, are exempt from assessment of taxes for township purposes, be and they are hereby declared separate and distinct from the township in which they are situated; *provided*, that all cities embraced by the terms of this act, containing over fifteen hundred inhabitants, shall, in addition to the officers provided for in their charters, be entitled to and shall elect, at their regular charter election, a chosen freeholder to represent said city in the board of chosen freeholders in the county in which said city is situated, the said chosen freeholder to hold his office for the term of one year and to be entitled to all the rights and privileges belonging to the members of said board of chosen freeholders.]

Certain cities declared separate and distinct from townships.

Proviso.

An act relative to the publication of the minutes and proceedings of the several municipal boards of the cities of this state.

Approved March 9, 1877. P. L. 1877, p. 297.

1536. SEC. 1. That in any city in this state, the municipal boards whereof are authorized by special act of the legislature to publish the minutes and proceedings of said board or boards, the proprietor or proprietors of the official newspaper or newspapers, so designated by said board or boards, which said official newspaper or newspapers have heretofore published said minutes in full and not an abstract or synopsis thereof, shall be entitled to receive and recover from said city or cities payment therefor, according to the rates fixed by said municipal board or boards.

Cost of publishing minutes of municipal boards may be recovered.

An act to grant power to the city councils of cities to regulate and control, by ordinance, the erecting and repairing partition fences in cities.

Approved April 5, 1878. P. L. 1878, p. 334.

1537. SEC. 1. That power and authority is hereby granted to the city council of any city of this state to pass, alter and repeal ordinances regulating the building, erecting and repairing of partition fences within said city, prescribing the notice to be given and manner of proceeding to make each landowner liable for one-half of the cost and expense of building a line or partition fence between the lands of such person or corporation

City council may make and repeal ordinances relating to partition fences.

and that of any other person or corporation; and such sum may be recovered by action of debt or in attachment in any court having jurisdiction of such sum, by the person incurring such cost and expense, in accordance with the provisions of any such ordinance.

An act concerning cities.

P. L. 1878, p. 339.

Approved April 5, 1878.

Cities having less than 3,000 inhabitants may purchase gas works, &c.

1538. SEC. 1. That the common council in cities of this state having a population of less than three thousand inhabitants, by the census of eighteen hundred and seventy-five, are hereby authorized to purchase gas works in their cities, and issue bonds to pay for the same; *provided*, the gas works to be purchased under the authority of this act shall have been in operation five years.

Proviso.

Repealer.

1539. SEC. 2. That all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

An act to compel the presentation for payment of past-due improvement certificates issued by any of the cities of this state.

P. L. 1879, p. 52.

Approved February 26, 1879.

When interest on improvement certificates shall cease.

1540. SEC. 1. That the proper financial authorities of any city in this state, in which improvement certificates are now due or hereafter may become due, may give thirty days' notice in the official paper or papers of such city of their readiness to pay said certificates at a time and place to be specified in such notice, and that interest on said certificates will cease from and after the date fixed for presentation and payment, and upon giving such notice as aforesaid, the interest upon said certificates shall cease as above provided for.

An act concerning cities.

P. L. 1879, p. 170.

Approved March 13, 1879.

Precincts to constitute wards in cities of 5,000 to 6,000 inhabitants.

1541. SEC. 1. That in all cities in this state having, under the last state census, a population of not less than five thousand, and not more than six thousand inhabitants, that are divided into two precincts, and have nine councilmen, the said two precincts shall constitute two wards of said cities.

Election of excise commissioners.

1542. SEC. 2. That the legal voters of such cities shall elect, on Saturday, the fifth day of April, one thousand eight hundred and seventy-nine, between the hours of seven A. M. and seven P. M., three commissioners, to be known as excise commissioners, one to be elected for one year, one to be elected for two years, and one to be elected for three years, and one annually thereafter, at the charter election; said commissioners shall be selected from each political party, and shall grant all licenses for the sale of spirituous, malt, and vinous liquors, and shall give bond in the sum of five hundred dollars for the faithful performance of their duties, such bond to be approved by the mayor and common council.

Commissioners shall grant licenses.

An act for the government of cities.

P. L. 1879, p. 173.

Approved March 13, 1879.

Cities having 50,000 inhabitants or less may sell certain lands.

1543. SEC. 1. That in all cities of this state having vacant corners at the intersection of any of the streets, the title to which land is in the said city or cities, or in the inhabitants thereof, by virtue of will or grant, the city council or board of aldermen of such city or cities, by a two-thirds vote thereof, shall be authorized to sell and convey the same in fee; *provided*, that no sale thereof shall be made without the written consent of the owners of lots fronting on said vacant corners.

Proviso.

Proceeds to be paid into city treasury.

1544. SEC. 2. That all moneys received from the sale of said vacant corners shall be paid into the treasury of the said city where said vacant lots are situate.

1545. SEC. 3. That the provisions of this act shall not apply to cities of this state having, by the last state census, a population exceeding fifty thousand, and that this act shall take effect immediately. Restriction of act.

An act providing for the sale of certain lands in cities, subject to dedication for public uses, and vesting title thereto in the purchaser.

Approved March 3, 1881. P. L. 1881, p. 65.

1546. SEC. 1. That where land has been dedicated to public uses in any city in this state, other than for streets or parks, and is now in the possession of and being used by the city authorities of such city, that the city board having control of and using such property as aforesaid, may, without the action of any other board, at any time, when in its judgment the location where such property is situated has or shall become unfit for the purposes for which the same is being used, sell said property at public auction, upon two weeks' advertisement, to the highest bidder therefor, and the mayor shall execute upon behalf of the city, under its corporate seal, attested by the city clerk, a deed conveying said property to the purchaser, upon the purchase-money being first paid to the city treasurer; the purchase-money shall be held by the city treasurer and his successors in office, to be used exclusively for the purchase of other real estate and the erection thereon of buildings and furnishing the same for the same public uses as the property sold; the expenditure of money therefor to be by said city board making said sale. City board may sell certain lands dedicated to public use at public auction. Mayor to execute conveyance, &c.

1547. SEC. 2. That the said city board may, in any case provided for in section one, when they deem it necessary, make a contract, upon such terms as said board shall deem just, with the owner or owners of the fee of the land desired to be sold, by which said owner or owners will execute a conveyance of said land to the city, or to the purchaser of said land, as may be deemed best, and carry out the terms thereof; and upon such sale and such action of the owner or owners, the title of the land in fee-simple so sold shall vest in the purchaser, his heirs and assigns forever, free from any and all dedications for public uses of every kind whatever. Board may make contract with owner of fee of land to convey the fee.

An act authorizing the cities of this state to make limited appropriations for the publication of the minutes of the proceedings of their municipal boards.

Approved March 3, 1881. P. L. 1881, p. 67.

1548. SEC. 1. That, with a view to the furnishing of precise and accurate public information of the proceedings of the municipal boards of the cities in this state, it shall be lawful for the board of aldermen, common council, board of finance or other governing body of any city, where provision is not now made for reporting or publishing the official minutes, to appropriate annually a sum not exceeding five hundred dollars, for the reporting and publishing during such year of the proceedings of its different boards in the several newspapers published and circulated in such city which shall be designated for that purpose; said appropriation, if made, to be distributed in such manner as the governing body of said city shall determine. Cities authorized to make appropriations for publication of minutes of their municipal boards.

An act concerning cities.

Approved March 23, 1881. P. L. 1881, p. 193.

1549. SEC. 1. That the common council or board of aldermen of any city of this state shall have power to pass, alter and repeal ordinances to compel the removal of snow and ice from the sidewalks and gutters of all the public streets, avenues or public places in any such city, and to prescribe penalties by fine, not exceeding five dollars in each case, for any violation of any ordinance herein authorized. Removal of snow and ice from sidewalks and gutters.

An act to authorize the abatement of nuisances in cities, and to make the cost and expense of such abatement a lien upon lands wherein such nuisances existed.

P. L. 1881, p. 202.

Approved March 24, 1881.

Grand jury, upon petition of five freeholders, may investigate and make presentment to court of existence of nuisances on lots, &c.

1550. SEC. 1. That whenever a petition, signed by at least five freeholders, residents of any city of this state, stating that a nuisance exists upon any lots or lands within or adjacent to the boundaries of any such city, by reason of stagnant water, or because such lots or lands are not filled in sufficiently to make them dry and healthy, or because buildings are in danger of falling for want of proper foundation, shall be presented to the grand jury of the county in which such city may be situate, it shall be the duty of such grand jury to investigate the matters contained in such petition forthwith, and for that purpose such grand jury shall have power to call and examine witnesses, and to view the premises whereon such nuisance is alleged to exist; and if such grand jury shall be of the opinion that a nuisance does exist, they shall forthwith make presentment to the court of oyer and terminer of such county, that in their judgment and opinion such nuisance does exist and should be abated.

Prosecutors of pleas to apply to court for trial of matters presented.

1551. SEC. 2. That as soon as said presentment shall have been made, it shall be the duty of the prosecutor of the pleas of such county to apply to said court of oyer and terminer to fix a time for the trial of the matters contained in such presentment, and such time having been appointed, the said prosecutor shall serve a notice upon the owner of the premises whereon such nuisance is alleged to exist, informing such owner of the time and place when and where the truth of the matters contained in such presentment will be tried, and notifying such owners to appear and make defense; which notice shall be served personally upon such owner, if found in the state, and if not so found, then said notice shall be served in such manner as the court shall order, either by publication or personal service out of the state.

Court to award a venire to summon a jury to try cause.

1552. SEC. 3. That said court shall also award a venire to summon a jury, as in other trials of issues in said court; and on the day fixed for trial the said matter shall be tried, unless adjourned by order of the court, whether the owner of such premises appear or not, and such trial shall be conducted in all respects as other trials by jury in said court; and the court shall have full power and authority to make all necessary orders or rules for the speedy and expeditious determination of the matters contained in such presentment.

Costs paid by petitioners if jury determine that no nuisance exists.

Judgment against owner if nuisance is found to exist.

1553. SEC. 4. That if such jury shall determine that no nuisance exists, as set forth in such presentment, judgment shall be entered accordingly and the costs be paid by the parties petitioning, and execution may be issued therefor; but if such jury shall determine that such nuisance does exist, then the court shall give judgment against the owner of the premises whereon such nuisance is found to exist, and also that the nuisance be abated by such early day as the court shall appoint; and if it shall appear to the court, by affidavit, that such nuisance has not been abated by such day, then it shall be the duty of the clerk of the court to certify the judgment of the court to the municipal authorities of the city wherein such nuisance is found to be, and such authorities shall thereupon proceed to abate such nuisance in the most practical and economical manner.

Costs and expenses of abatement to be a first lien upon the lands.

1554. SEC. 5. That as soon as such nuisance shall have been abated, a complete statement of the cost and expenses of such abatement shall be presented to the corporate authorities of such city, and if they approve the same, such costs and expense shall thereupon become a first and paramount lien upon the lands and premises whereon such nuisance had existed, in the same manner that taxes are a lien under the charter of such city; and they shall transmit the same to the collector or receiver of the revenues of such city, who shall proceed to collect the amount of such cost and expense as taxes and assessments for improvements are collected.

On failure to pay, lands to be sold.

1555. SEC. 6. That if such cost and expense of abatement be not paid to such collector or receiver within ninety days from the date of approval

by the corporate authorities of such city, such collector or receiver shall return the same in like manner as return is made of unpaid taxes and assessments; and the corporate authorities shall thereupon direct the sale of the lands whereon such nuisance had been abated; and the clerk of such city shall thereupon proceed to advertise and sell the same, in the same manner as lands are sold under the charter of such city for non-payment of taxes and assessments; and a declaration of sale shall be issued to the purchaser thereof, as under sales for taxes; *provided*, that the owner of such premises, or any person holding any incumbrance thereon, shall have such right to redeem such premises as is provided by the charter of such city in cases of sale for non-payment of taxes and assessments. Proviso.

1556. SEC. 7. 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 authorizing the legislative bodies of the cities of this state to pass ordinances providing for the removal of dangerous walls, buildings, stacks and chimneys erected therein.

Approved March 25, 1881. P. L. 1881, p. 259.

1557. SEC. 1. That each of the cities of this state shall have power, by its legislative body, to make and adopt ordinances providing for and regulating the removal of walls, buildings, stacks and chimneys erected therein that are liable to fall or that are dangerous to life, said removal to be made by the owner, agent or person having control thereof, or, in case of failure of such owner, agent or other person, as aforesaid, to remove or otherwise make safe the same within a specified time, after complaint and notice, or, in case such owner, agent or other person cannot be found, then by the proper city officer or officers designated for that purpose, but at the cost and expense of such owner, agent or person controlling the same. Cities may adopt ordinances for removal of dangerous walls, &c.

1558. SEC. 2. That any violation of any ordinance hereby authorized may be punished by fine not exceeding fifty dollars for each day said violation shall continue. Penalty for violation of ordinances.

An act to authorize cities to sell and convey such titles to lands as may have been acquired by purchasing such lands for the non-payment of assessments for improvements.

Approved March 25, 1881. P. L. 1881, p. 280.

WHEREAS, Heretofore, in many of the cities of this state, public improvements were caused to be made by filling in, grading, curbing, flagging or paving streets, or by building sewers therein, for which improvements the lands supposed to have been benefited by such improvement or improvements were assessed, and for non-payment of such assessment or assessments such lands have been advertised for sale for a term of years, and for want of other purchasers such lands have been purchased for a term of years as aforesaid for the benefit of such city or cities in which such lands were situate; *and whereas*, by reason of the accumulation of interest on such assessments and the general depreciation in the values of real estate, in many cases the owners of the fee in such lands so assessed and sold as aforesaid have neglected and refused to redeem such lands for more than the time limited by law for redemption thereof after the said lands were sold as aforesaid, whereby the title of such cities for the term or terms aforesaid have become absolute; *and whereas*, such cities have no means of utilizing the lands so purchased for non-payment of assessments; therefore, Preamble.

1559. SEC. 1. That in all cases where any city or cities in this state have or hold any lands by virtue of any purchase or purchases under any sale of such lands for the non-payment of any assessment or assessments thereon for any improvement or improvements heretofore made, or claim to have any lien upon, or right, title or interest of, in or to such lands by virtue of such purchase or purchases heretofore made, where the time limited by law for the redemption thereof has expired, it shall be lawful for Cities may sell their right, title, and interest to lands that have been purchased by them for non-payment of assessments for improvements.

the mayor and council, mayor and aldermen, or the corporate authorities of such city, by whatever name they may be called, to designate a time and place for sale, and to direct the city clerk of such city to advertise and sell at public vendue, to the highest bidder, all the right, title and interest which such city has or claims to have of, in and to such lands purchased for the non-payment of assessments aforesaid; *provided, nevertheless*, such lands shall be sold subject to the lien and incumbrance of all unpaid taxes at any time heretofore assessed and levied thereon by the law of general taxation for state, county and municipal purposes, and also subject to unpaid water rates.

Proviso.

Notice of sale to be posted and advertised.

1560. SEC. 2. That notice of the time and place when and where such sale will be made, together with a description of such lands, and the city's term therein, shall be posted in five public places in such city for at least thirty days, and published in at least one newspaper printed, published and circulating in such city, once each week for four weeks successively, previous to such sale.

Lands to be sold separately.

1561. SEC. 3. That such lands, or the right, title and interest of such city or cities therein, shall be sold in separate lots or parcels of the same dimensions as the same were originally assessed and purchased by such city or cities, except in cases where assessments have been divided and apportioned under some existing law to correct mistakes, or to allow a portion or portions of a lot or lots so assessed to be redeemed; and in such cases such lot or lots or parts of lots shall be sold separately, according to the new apportionment or apportionments.

When sale may be adjourned.

1562. SEC. 4. That in case at the time and place so appointed for the sale of such lots or parcels of land no person shall bid or offer to pay for the same at least one-fourth part of the amount of principal and interest of the assessment or assessments existing against any lot or lots so offered for sale as aforesaid, the sale of such lot or lots shall be adjourned for not less than two weeks nor more than six weeks, at which adjourned sale such lot or lots may be sold to the highest bidder therefor, without regard to the amount owing on such assessment or assessments.

City authorities may make and publish conditions of sale and execute and deliver deeds.

1563. SEC. 5. That the city authorities of the city making such sale shall have power to make and publish such conditions of sale, as to payments and delivery of deeds of conveyance, as they may deem expedient, and that upon compliance with such conditions by the purchaser or purchasers of any lot or lots, such city, by its mayor or other duly-authorized agent or agents, shall sign, seal and deliver a deed to such purchaser or purchasers conveying all the right, title and interest which such city has or claims to have of, in and to the lands therein described, which deeds, the execution thereof having been duly proved, may be recorded in the office of the clerk or register of the county in which such lands are situated, the same as other deeds of conveyance, subject, nevertheless, to the lien and incumbrance thereon of all taxes previously assessed thereon by general taxation for state, county and municipal purposes, and subject to all unpaid water rates, such taxes and water rates to remain liens thereon the same to all intents and purposes until paid as if such sale and conveyance of assessment, title or titles had not been made; *provided, nevertheless*, that no city shall have power to warrant the title which such city professes to sell and convey.

Proviso.

Repealer.

1564. SEC. 6. That all acts and parts of acts, whether special or general, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

An act concerning the publication of ordinances, financial statements and other public notices.

Approved March 25, 1881. P. L. 1881, p. 295.

1565. SEC. 1. That in all cities of this state, the ordinances passed by the city councils thereof shall be published in at least one newspaper printed and published in the city affected by said ordinances, for at least two insertions, before said ordinances shall become operative and binding. (*a*) How all ordinances shall be published.

1566. SEC. 2. That the said city councils shall publish the annual financial statements of such cities in at least one newspaper printed and published in the city for which said financial statement is made, for at least two insertions; and all other public notices required by law to be published in any manner shall be published in at least one newspaper in said cities, for at least two insertions; *provided*, that in any case where such publication is made in two newspapers, said papers shall not be of the same political party, unless all the papers published in such city are of the same political party. Annual financial statements and public notices to be published. Proviso.

1567. SEC. 3. That the newspaper publishing such ordinances, financial statements and all other public notices shall have been published for a period of two years before such publication can be legally made therein, and that the compensation for publishing the above-mentioned ordinances, financial statements and other public notices shall be the same as is now allowed for legal advertising in this state, and no more; and that in such cities as now have or may hereafter have more than one official paper, the ordinances, public notices and official minutes of the municipal boards in said city shall be published in said official papers, and that the compensation for such publications in cities having more than one official paper shall be fixed by the authorities appointing such papers. Compensation for publishing ordinances, statements, &c.

1568. SEC. 4. That all acts or parts of acts in conflict with this act are hereby repealed, and that this act shall be deemed a public act and shall take effect immediately. Repealer.

An act to secure the performance of contracts for city improvements within the time required by such contract.

Approved February 8, 1883. P. L. 1883, p. 27.

1569. SEC. 1. That in all proposals to contractors for any improvement in any city in this state, the surveyor shall include in the advertisement for proposals the number of days allowed for the completion of the improvement. [See Sec. 1572, *post.*] Time for completion of improvement to be included in advertisement for proposals.

1570. SEC. 2. That such city shall include in the contract for such improvement the number of days allowed to complete said improvement as mentioned in the advertisement for the completion thereof, and shall provide in said contract that said city shall deduct and retain out of the moneys which may be or become due to the contractor, as damages for the non-completion of the improvement within the time mentioned in said proposals, the sum which shall accrue or become due for the inspectors' wages for each and every day the aggregate time of all the inspectors employed on said improvement may exceed the stipulated time for its completion, in addition to any other penalty which said city may determine to exact for such non-completion. [See Sec. 1573, *post.*] What shall be deducted from contract price if work be not done within specified time.

1571. SEC. 3. That in no case shall the city, or any of its agents, have the power or authority to release in any way the contractor from such contract, but shall in all such cases deduct and retain out of the moneys which may be or become due to the contractor, as damages for the non-completion of the improvement within the time mentioned in the contract, the sum which shall accrue or become due for the inspectors' wages for each and every day City not to release contractor.

(*a*) An act of the legislature which in terms applies to all cities, must be construed to apply to all, and to repeal all inconsistent legislation. If any city is excepted from its operation, either by expression or by implication, it would be a special law and therefore unconstitutional. The implication in such case will not be made that an exception is intended. The interpretation which validates the law will be adopted. Therefore, this act applies to Camden. *Bowyer* v. *Camden*, 21 *Vr.* 87.

the aggregate time of all the inspectors employed on said improvement shall or may exceed the time stipulated in said contract for its completion, whether said time for completion is extended by said city or not.

Supplement.

P. L. 1886, p. 346.

Passed May 11, 1886.

Advertisement for proposals, what to contain.

1572. SEC. 1. That whenever any city in this state shall publish an advertisement for proposals for any improvement to be made in any such city, such advertisement shall contain a statement of the number of days to be allowed for the completion of such improvement.

Amount to be deducted from contract price if work not completed in specified time.

1573. SEC. 2. That the contract entered into between any such city and any contractor, for every improvement in any such city, shall also contain a statement of the number of days to be allowed for the completion of any such improvement; and such contract shall provide that in case of the non-completion of any such improvement within the time so specified and allowed, any such city may deduct and retain out of the moneys due or which may be or become due to the contractor from any such city, such sum as shall be sufficient to pay the wages of the inspector or inspectors of any such improvement for each and every working day from the time so allowed for the completion of any such improvement up to the time when the same shall have been completed; *provided, however*, that when, in the making of any such improvement, it shall be found that the work actually to be done and performed is in excess of the quantity of work estimated in any such advertisement or contract to be done, then such deduction for the payment of such inspectors' wages shall be allowed only from and after the time, in addition to the time first allowed, when such excess of work could reasonably be expected to be completed.

Proviso.

Word "day," how construed.

1574. SEC. 3. That the word "day," wherever the same occurs in this act, shall be deemed and taken to be a day fit for work in the making of any such improvement.

Repealer.

1575. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

An act to provide for the preservation of the public records of cities of this state.

P. L. 1883, p. 237.

Approved March 23, 1883.

Preamble.

WHEREAS, In many cities of this state, the public records of such cities have accumulated to such an extent that, with the present accommodations therefor, there is not sufficient protection from fire or theft; therefore,

Preservation of city records.

1576. SEC. 1. That it shall be lawful for that board to which the general management and care of the finances of any city in this state is committed, to take such steps as may, in the discretion of such board, be necessary for the proper care and preservation of the records of such city, and to provide for the raising of the money necessary for that purpose, either by general tax or by the issuing of the bonds of such city; *provided*, that if bonds are issued they shall not be sold for less than their par value, and shall be made payable at such time as such board shall fix, and shall bear interest at a rate not exceeding five per centum per annum; *and provided further*, that in no case shall the amount of money raised for such purpose exceed the sum of four thousand dollars.

Proviso.

Proviso.

An act in regard to the numbering of houses in cities.

P. L. 1884, p. 75.

Passed March 12, 1884.

Numbering of buildings in cities of first and second classes.

1577. SEC. 1. That in cities of the first and second classes the common council shall have power to adopt a scheme for numbering and renumbering all buildings in their respective cities by streets, and, through some appropriate committee or the street commissioner, may designate the number to be given to each such building or parts of any building, and shall immediately notify the owner or person occupying such building or such

part thereof of the number designated therefor, and in case of failure of said owner or occupant, for the space of thirty days next thereafter, to cause such number to be properly attached in front thereof, then it shall be lawful for such common council, by resolution, to direct such committee or the street commissioner to attach such number and to include the expense thereof, which shall not exceed the sum of fifty cents, in the then next annual assessment for taxes against said dwelling, and the same shall be payable and collected in the same manner as other taxes are collected.

An act concerning the publication of financial statements in cities of this state.

Approved March 19, 1884. P. L. 1884, p. 83.

Financial statements may be published at end of fiscal year in certain cities.

1578. SEC. 1. That in all cities of this state, in which annual financial statements of such cities are required to be published, such financial statements may be published at the termination of each fiscal year.

May be in pamphlet form.

1579. SEC. 2. That said financial statements may be published in pamphlet form.

Repealer.

1580. SEC. 3. That all acts and parts of acts, general, special, local or otherwise, and all charters and parts of charters, inconsistent with the provisions of this act, be and the same are hereby repealed.

An act relating to cities of the second and third class.

Passed March 25, 1884. P. L. 1884, p. 94.

Wires for electric lights, how to be placed in cities of second and third classes.

1581. SEC. 1. That in cities of the second and third class in this state, it shall and may be lawful for the common council of any such city, by ordinance or otherwise, to authorize the placing in the streets and alleys of such city, wires and other appliances for electric lighting, in such manner as not to endanger life or property, and to authorize the laying of conduits in such streets and alleys, underneath the surface thereof, for placing wires for electric lighting therein.

Company to obtain consent of owner of property to erect poles.

1582. SEC. 2. That any company taking advantage of the provisions of this act shall obtain the consent of the parties upon whose property it intends to erect any pole or poles.

Wires to be laid not less than three feet from gas or water pipes.

1583. SEC. 3. That any wires for conveying electricity, or the conduits containing said wires, shall be laid at the greatest practicable distance from the outside of any water or gas pipe now laid down, and that such distance shall not be less than three feet.

An act concerning cities.

Approved May 9, 1884. P. L. 1884, p. 292.

Authority to borrow in anticipation of revenue.

1584. SEC. 1. That in any case where anticipated revenues have been or shall be appropriated in the annual appropriations of any city, it shall be lawful for any board of aldermen or common council now having by law the control of the finance of such city, to borrow temporarily, in the name of such city, any sum not exceeding the amount of such anticipated revenue.

An act entitled "An act relating to the depth and construction of foundation walls of buildings and the responsibility of adjoining property-owners to each other in cities in the state of New Jersey."

Approved May 10, 1884. P. L. 1884, p. 338.

Common council, &c., of cities may provide by ordinance for the depth and construction of foundation walls, &c.

1585. SEC. 1. That it shall be lawful for the common council of any city in this state, or other municipal board empowered by the charter to pass ordinances, to provide by ordinance for the depth of excavation below the established grade or curb line of any street in any such city, not greater than ten feet, to which the owner of any land may excavate, in the erection of any building upon his own property, and to provide for the giving of notice, in writing, of such intended excavation to any adjoining owner

or owners, and that they will be required to protect and care for their several foundation walls that may be endangered by such excavation, and to provide that in case of the neglect or refusal, for ten days, of such adjoining owner or owners to take proper action to secure and protect the foundations of any adjacent building or other structure, that the party or parties, or their agents, contractors or employes may enter into and upon such adjoining property and do all necessary work to make such foundations secure, and recover for such work and labor, in so protecting such adjacent property, the cost thereof, and to make such further and other provisions in relation to the proper conduct and performance of said work as to said common council or legislative board of any city may seem necessary and proper.

Suits may be maintained for necessary work in protection of walls, &c.

1586. SEC. 2. That a suit may be maintained in any court having jurisdiction over the amount involved and the person of the plaintiff or defendant, to recover for any work done under any ordinance passed in pursuance of the first section hereof, in the protecting or securing of the buildings or foundation walls of adjacent owners as aforesaid.

An act to empower common councils of cities, by ordinance, to extend the time for transmitting annual estimates by other city boards.

P. L. 1885, p. 175.

Approved March 25, 1885.

Extension of time for transmitting annual estimates.

1587. SEC. 1. That from and after the passage of this act it shall be lawful for the common council of any city in this state, to whom any subordinate, co-ordinate, or other city board, is required by law to transmit annually estimates of current or other expenses for the approval of such common council, to extend by ordinance, for a period not exceeding two months, the time for transmitting such estimates.

An act to authorize cities of this state to purchase, construct and maintain a public bath.

P. L. 1886, p. 212.

Approved April 12, 1886.

Cities may maintain public baths.

1588. SEC. 1. That it shall and may be lawful for any city of this state bordering on any river or navigable stream of water, through its common council, board of aldermen or other governing body, to purchase, construct, maintain and regulate a public bath for the use and convenience of the inhabitants of such cities, and may hire or lease sufficient space on the shore of such river or navigable stream to accommodate the said bath.

May issue bonds to pay for bath.

1589. SEC. 2. That the mayor and common council or other municipal authority of such cities shall have power to issue bonds of such city for the payment of the cost of the purchase, construction and maintenance of said bath, and the ground and water-front necessary for the accommodation of the same, which bonds shall have not more than ten or less than five years to run, and shall bear interest at the rate of five per centum per annum, and shall pledge the faith, credit and property of said city for the payment of principal and interest thereon, and shall provide for the redemption of said bonds by taxation.

Repealer.

1590. SEC. 3. That all acts and parts of acts inconsistent herewith be and they are hereby repealed.

An act relating to the fiscal year of cities.

P. L. 1886, p. 213.

Approved April 12, 1886.

Beginning and end of fiscal year, how changed.

1591. SEC. 1. That it shall be lawful for the common council or other legislative body of any city in this state to change, by ordinance, with the concurrence of the board or body having charge or control of the finances of such city, the date of the beginning and ending of its fiscal year.

May use unexpended balances of taxes for expenses caused by change of fiscal year.

1592. SEC. 2. That in order to provide for the current expenses of any city between the ending of its fiscal year as now fixed by law, and the beginning of the fiscal year that may be fixed in pursuance of this act, it

shall be lawful for any city to appropriate and use for that purpose any or all of its unexpended balances of taxes, whether collected or not; *provided*, that the amount so appropriated shall not be in excess of the amount expended during the corresponding period of time in the year next preceding; *and provided further*, that no balance or arrears of taxes that may have been pledged to secure any debt shall be used for the purpose aforesaid. Proviso. Proviso.

1593. 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. Repealer.

An act concerning cities.

Approved February 22, 1888. P. L. 1888, p. 98.

1594. SEC. 1. That it shall be lawful for the common council, board of aldermen or other governing body of any city, after the adoption of the annual ordinance for the assessment of taxes in such city, to borrow in anticipation of the taxes so ordered and assessed, any amount or amounts not exceeding one-half of the total amount ordered assessed for that year; *provided*, that nothing herein shall be construed to limit any power possessed by any city to borrow a larger sum. Cities may borrow in anticipation of taxes. Proviso.

An act to enable cities in this state to pay past-due improvement certificates out of the general funds of such cities.

Approved April 24, 1888. P. L. 1888, p. 537.

1595. SEC. 1. That it shall and may be lawful for any city in this state in which improvement certificates have been or shall be issued to any person for work done or to be done, or materials furnished or to be furnished for the construction, grading or improvement of any street, sewer or other public improvement in such city, where the costs and expenses of such improvements have not been collected by such city, or paid over by the owners of the property assessed for such improvement, to pay the said certificates on presentation by the holders thereof to the treasurer of such city out of the general contingent fund of such city, or in the same manner that a judgment for the amount of such certificate or certificates would be met and paid by such city before the passage of this act. Improvement certificates to be paid out of contingent fund, &c.

1596. SEC. 2. That all acts or parts of acts inconsistent herewith be and they hereby are repealed, and that this act shall take effect immediately. Repealer.

An act to empower cities in this state to provide for the payment for repairs made to and upon public streets or public places in such cities.

Approved February 26, 1889. P. L. 1889, p. 32.

1597. SEC. 1. That in any city in this state where the board or authorities having cognizance and control of the improving, regulating or repairing of streets and public places in such city, shall have heretofore made any necessary or required repairs to and upon any such streets or public places in excess of any appropriation or provision made to any such board or authorities for such purpose, then in such case, and upon the board of such city having the charge and control of the finances therein being satisfied that such repairs have been made, said board having the charge and control of such finances of such city shall make provision for the payment of the cost of such repairs to such streets or public places so made by the board or authorities as aforesaid, and said board having the charge and control of the finances of such city shall pay the amount of the cost of such repairs; *provided, however*, that the cost of such repairs as aforesaid and the expenditure therefor, shall not exceed the sum of thirty-five hundred dollars. Provision for paying for necessary repairs to streets, &c. Proviso.

1598. SEC. 2. 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 settle disputed boundaries between adjoining cities of this state.

P. L. 1889, p. 46.

Approved March 7, 1889.

Proceedings to determine disputed boundary lines between cities.

1599. SEC. 1. That whenever there is a dispute or uncertainty concerning the true boundary line between adjoining cities in this state, it shall be lawful for the common council or other legislative body of either of said cities, upon fourteen days' notice in writing, served upon the mayor or city clerk of the adjoining city, to make application to the judge of the circuit court of the county wherein the disputed boundary line is located, for the appointment of three commissioners, who shall be freeholders in said county, one of said commissioners to be appointed from each city and one who shall not reside in either city, which said commissioners shall fix, determine and monument said boundary line between said cities, which line, when finally fixed, determined and monumented, shall remain inviolate.

Commissioners to take oath.

1600. SEC. 2. That the said commissioners, before they enter upon the execution of their duties under said appointment, shall take and subscribe an oath or affirmation before any officer authorized to take an oath, that they will faithfully and impartially perform all the duties appertaining to said appointment.

Notice of meeting to be given.

1601. SEC. 3. That the said commissioners or any two of them shall give twenty days' notice in writing to the respective cities between which such boundary line is in dispute, of the time and place of their meeting to execute the duties of said appointment, which notices shall be served upon the city clerks of said respective cities.

Commissioners may examine witnesses and employ surveyors, &c.

1602. SEC. 4. That said commissioners may, in discharge of their said duties, examine witnesses under oath to be administered by either of said commissioners, and employ surveyors and cause a map and survey to be made of said boundary line, which map and survey fixing said boundary line, certified under their or any two of their hands, shall be annexed to their commission or appointment and oath or affirmation of office and report, and delivered to the clerk of the circuit court of said county, who shall record and file the same.

Charges and expenses, by whom paid.

1603. SEC. 5. That all the charges and expenses of executing the duties of said appointment, inclusive of the fees of said commissioners, recording and filing the commission, the oath of office, the map, survey and report shall be fixed by the judge of the circuit court of said county, and one-half of the whole amount so fixed by said judge of the circuit court, shall be paid by each city.

Repealer.

1604. SEC. 6. That all acts or parts of acts inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately

An act to enable cities to borrow money on temporary loans in anticipation of moneys received from the state.

P. L. 1889, p. 130.

Approved March 30, 1889.

City may borrow in anticipation of receipt of school moneys.

1605. SEC. 1. That whenever it has become or may become necessary in any of the cities of this state to use the whole or any part of the appropriation annually made by the state for the support of public schools therein, before the same has been actually paid over by the state to such city, it shall and may be lawful for such city to borrow, on temporary loans, in anticipation of such receipt, the whole or any part thereof; *provided*, the amount so borrowed shall not exceed in any one year the amount so apportioned.

Proviso.

Such loans, when to be paid.

1606. SEC. 2. That it shall be the duty of such city to pay off and discharge all such loans outstanding when such money so anticipated is received.

An act to regulate the number of votes required by cities of the second and third classes to adopt resolutions and motions relating to the expenditure of money.

Approved May 13, 1889. P. L. 1889, p. 451.

Requisites of resolution to expend money in cities of second and third classes.

1607. SEC. 1. That in all cities of the second and third classes of this state, no resolution or motion involving the expenditure of money shall be adopted or passed by the board of aldermen, common council or other legislative body of any such city by a vote of less than a majority of the whole number thereof.

An act relative to the cleaning of streets and the removal of ashes and garbage in cities of this state.

Approved March 12, 1890. P. L. 1890, p. 76.

Appropriation for cleaning streets and removing garbage may be increased.

1608. SEC. 1. That whenever the appropriation heretofore made or hereafter to be made in any city of this state for the cleaning of streets and the removal of ashes and garbage therefrom shall prove insufficient for the proper and efficient execution of said work, it shall be lawful for the board having charge of the finances in such city, in their discretion, upon the request of the board having charge of the cleaning of the streets and removal of ashes and garbage therefrom, to increase said appropriation at any time or times during the fiscal year for which the same was made, in such additional amounts, not exceeding in the aggregate the original appropriation for such purposes, as said board may deem necessary for the proper and efficient execution of the work aforesaid.

Necessary money therefor may be borrowed.

1609. SEC. 2. That the board having charge and control of the finances in any such city is hereby authorized to borrow, on temporary loan bonds, the amount of money which said board may by this act appropriate for the purposes aforesaid, in anticipation of taxes next thereafter to be levied, and to issue proper evidences of indebtedness therefor; and said board shall provide for the repayment of the said borrowed moneys in the tax levy to be made next thereafter.

An act to provide for the deficiencies in appropriations for lighting the streets of cities for the current year.

Passed April 28, 1890. P. L. 1890, p. 276.

Inadequate appropriation for lighting streets may be increased.

1610. SEC. 1. That in any city in this state in which the appropriations for lighting the streets for the current year shall be found to be inadequate, the proper authority having charge of the finances thereof shall have the power, in their discretion, to borrow such further sum as may be found necessary for lighting, and such amount shall be provided for in the next annual tax levy in such city. (*a*)

An act to regulate processions and parades in cities of the first and second class in this state.

Approved May 12, 1890. P. L. 1890, p. 295.

Regulations for parades in cities of first and second classes.

1611. SEC. 1. That all processions and parades are forbidden in, over, upon or through any street, avenue or public thoroughfare of any city of the first or second class in this state, unless written notice of the object, time and route of such procession or parade be given to the police authorities of such city by the chief officer or person or persons in charge of such procession or parade not less than six hours previous to the time of forming such procession or parade, and it may be lawful for said police authorities to designate to such procession or parade which, or how much of any street, avenue or public thoroughfare it can occupy, and when so designated, the chief officer, or person or persons in charge of such procession or parade, shall be responsible that the designation is obeyed; and the police

Police authorities to designate streets, &c.

(*a*) *Query*—Does this act relate to any year after 1890?

authorities of any such city may furnish such escort as may be necessary to protect persons and property and maintain peace and order.

Parades on Sunday forbidden.

1612. SEC. 2. That processions and parades on the Sabbath day, commonly called Sunday, in any street, avenue or public thoroughfare in any city of the first or second class in this state, excepting processions or parades proceeding to or returning from any place of burial, and processions to and from any place of worship in connection with a religious service then celebrated, are forbidden, and in no such excepted case shall there be any music except by consent of the police authorities first had and obtained.

Funeral parades, with music, allowed on Sunday.

1613. SEC. 3. That it shall and may be lawful for any body of the national guard of this state, the police or fire department, the grand army of the republic or other veteran organization, to parade in any public street, avenue or thoroughfare in any city of the first or second class in this state, and to cause music to be played while in such procession or parade, and to cause music to be played while proceeding to or returning from any place of burial on the Sabbath day, commonly called Sunday, except that music shall not be played while passing any church or place of worship on the Sabbath day, commonly called Sunday, subject to any police regulation the police authorities may deem necessary for the preservation of the public peace.

Penalty for violation of act.

1614. SEC. 4. That every person who shall willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall suffer a penalty not exceeding fifty dollars or imprisonment not exceeding thirty days, or both, at the discretion of the court.

An act to validate certain ordinances heretofore passed by governing bodies of cities in this state.

P. L. 1892, p. 314.

Approved March 28, 1892.

Preamble.

WHEREAS, In certain cities of this state, the provisions of whose charters require publication of notice of the time of consideration of certain ordinances, and also of the text of the ordinances themselves to be made in a German newspaper; *and whereas*, through misapprehension or misconstruction of the law, such notices and ordinances have heretofore been published in such newspapers, in a manner not in accordance with the true intent and meaning of the law; now therefore,

Certain ordinances not legally published validated.

1615. SEC. 1. That all such notices and ordinances be and the same are hereby validated and rendered effectual to all intents and purposes as if the same had been legally published.

An act concerning cities in this state, and regulating official searches of municipal records of such cities respecting municipal liens on real estate situate within the same.

P. L. 1894, p. 308.

Approved May 15, 1894.

Searches for tax and assessment liens to be binding on city.

1616. SEC. 1. That in all cities in this state wherein the records of the lien of taxes and assessments and sales for the same are kept in one department and under the custody of a single officer of said city all searches for taxes and assessments and sales for the same on real estate within such city shall be furnished, on application of any person interested therein, by the officer of such city having the custody of the records in which the same are recorded, and all such searches shall be deemed and taken to be the declaration of such city, and shall be binding and conclusive against such city, and liens not shown upon any such search shall not be enforceable against the property on which such search is made; *provided*, that in every such case the person who shall require such search shall indicate distinctly, in writing, the property on which such search for liens for taxes and assessments is desired, and shall pay into the treasury of such city, for the use thereof, the sum of three dollars at the time such application is made.

Proviso.

Repealer.

1617. SEC. 2. That all acts or parts of acts inconsistent with this act, be and the same are hereby repealed.

An act concerning the cremation of garbage, and authorizing the acquisition of lands and the erection of crematories thereon, in the cities of this state.

Approved February 20, 1895. P. L. 1895, p. 101.

Cities may erect garbage crematories.

1618. SEC. 1. That whenever, in the opinion of the common council, board of aldermen, or other governing body having charge of the streets of any city of this state, it shall be necessary to cremate the garbage and other refuse collected in such cities, it shall be lawful for such common council, board of aldermen or other governing body to purchase, in the corporate name of the city, all necessary lands and real estate in such city, and to erect thereon a building or buildings, and equip the same with all appliances necessary and suitable for the cremation of such garbage and refuse matter.

May issue bonds to pay for the same.

1619. SEC. 2. That to provide moneys necessary to pay for such lands and real estate, and the erection and equipment of such buildings, it shall be lawful for such common council, board of aldermen or other governing body having charge and control of the finances of such city, to issue bonds in the corporate name of the city, not exceeding the amount required to be paid for said lands and real estate and the erection and equipment of such buildings, pledging for the redemption thereof the faith of said city, under the seal of the city, signed in the manner prescribed by law, and attested by the city clerk, of such denominations as said common council, board of aldermen or other governing body shall deem fit, bearing interest at a rate not exceeding five per centum per annum, and redeemable in not more than twenty years from the date of issue, and to dispose of the same for the best price that can be obtained, but at not less than par value, and to provide for the redemption thereof and the payment of the interest thereon, by taxation.

May contract with private parties for cremating garbage, &c.

1620. SEC. 3. That if in the opinion of the common council, board of aldermen or other governing body having control of the streets of such city, it is more advantageous for such city to have such garbage and other refuse matter cremated by persons other than the city authorities, and at crematories not owned by the municipal corporation, it shall be lawful for such common council, board of aldermen or other governing body to make a contract or contracts, not exceeding the term of five years at a time, with any corporation or individual for the cremation of such garbage and other refuse matter, and it shall be the duty of such common council, board of aldermen or other governing body having charge of the finances of such city, during the continuance of such contract or contracts, to annually raise by taxation the sum needed to defray the expense of such collection and cremation for the fiscal year then next ensuing.

Repealer.

1621. SEC. 4. That all acts and parts of acts, general, special and local, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to provide for the autonomy of certain cities in this state which have been created out of townships whose officers have continued to exercise their functions within the corporate limits of such cities.

Approved February 25, 1895. P. L. 1895, p. 111.

Preamble.

WHEREAS, Certain cities of this state have been heretofore created within the limits of the territory theretofore included within the boundaries of townships, and governed as such, and, notwithstanding the creation of cities, the township committees and other officers of such townships have continued to assert and exercise their powers as the governing bodies and officers of such townships, in and over and within the limits of such cities, by the assessment and collection of taxes and otherwise, whereby great confusion has arisen in the government of said cities; therefore,

Township officers shall not exercise official functions within city limits.

1622. SEC. 1. That from and after the passage of this act, no officer or officers of any township of this state from which any city has been heretofore created, the officers of which townships have continued to exercise their functions within the corporate limits of such city, shall perform any governmental act or exercise as an officer of such township any official function within or over any such city or the property or inhabitants thereof.

Taxes shall be assessed and collected by city officers.

1623. SEC. 2. That from and after the passage of this act, all taxes assessed or collected within the limits of such cities for any purpose shall be assessed and collected exclusively by the assessor or assessors, collector or collectors of such cities, who shall discharge the same duties and exercise the same powers conferred by law upon assessors and collectors of taxes in such cities; and such assessors of taxes of such cities shall be members of the board of assessors of the counties in which such cities may be situated.

Overseer of poor to be elected.

1624. SEC. 3. That in each of such cities, unless otherwise provided for by law, there shall be elected at the charter election so many overseers of the poor as are or may be authorized by law to be elected in each of the townships of the county in which such city is situated.

Chosen freeholders to be elected.

1625. SEC. 4. That in each of such cities there shall be elected at the charter election so many chosen freeholders as are or hereafter may be authorized by law to be elected in each of the townships of the county in which such city is situated.

Election and powers of justices of the peace.

1626. SEC. 5. That in each of such cities, or in each of the wards thereof, there shall be elected at the next charter election, and thereafter as their terms of office may expire, so many justices of the peace as are now authorized by the constitution; said justices shall hold office for the term now fixed by law for the justices of the peace elected in townships of this state, and shall have the same jurisdiction and powers as such justices; vacancies in said office shall be filled at the charter elections in the said city in the same manner as is now done in the case of vacancies in the offices of justices elected in townships.

Township committee and finance committee of city shall divide public property.

1627. SEC. 6. That the township committees of such townships and the finance committees of such cities (or committees in charge of the finances of such cities) shall meet within thirty days after the passage of this act, in the city halls of such cities or other place or places wherein the common councils of such cities now meet, and shall then and there proceed, by writing signed by a majority of the members of said committees present, to allot and divide between such cities and townships all property, real and personal, choses in action, moneys on hand, tax liens, or the right thereof, due or to become due, in proportion to the taxable property and ratables as assessed by the respective assessors within the limits of such cities and townships at the last assessment for taxing purposes made by the respective assessors in such cities and townships, and may adjourn said meetings from time to time, as a majority of those present may deem proper; and the inhabitants of the said respective cities and townships shall be liable to pay their just proportion of the debts, if any there may be; and a majority of the persons comprising said committees shall constitute a quorum, and may proceed to make the said division, and shall, within six months from the time of said first meeting, make their report in writing to the city clerk of such cities and to the township clerk of such townships, to be filed by such officers with the public records of the respective cities and townships; *provided*, that such award and determination of said committees shall be reviewable by certiorari by the supreme court at the instance of any freeholder within any of such cities or townships, and on the hearing of said certiorari the said court shall have power to determine and settle in a summary manner all of the questions brought up by the said writ, and shall have power to adopt such rules and proceedings as may enable it to carry into effect the true intent and meaning of this section.

Inhabitants shall pay proportion of public debt.

Proviso.

1628. SEC. 7. [Amended by Sec. 1629, *post.*]

Amendatory act.

Approved March 7, 1895. P. L. 1895, p. 206.

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1629. SEC. 1. That section seven of the act entitled "An act to provide for the autonomy of certain cities in this state which have been created out of townships whose officers have continued to exercise their functions within the corporate limits of such cities," approved February twenty-fifth, one thousand eight hundred and ninety-five, be and the same is hereby amended as follows:

[That all acts or parts of acts inconsistent with or repugnant to this act, in so far as they are inconsistent with or repugnant hereto, be and the same are hereby repealed, and that this act shall take effect immediately; *provided, however*, that nothing in this act contained shall prevent or in any way interfere with the collection in such cities by the officers of said township of taxes heretofore assessed upon persons and property within the limits of such cities by said township assessor, but the payment of such taxes may be enforced in the same manner and to the same extent as if this act had not been passed; *and provided, further*, that this act shall not be held to apply, and shall not apply, to any township having a population of less than six thousand, or to any city situate in any such township.]

Repealer.

Proviso.

An act to authorize the codification of the ordinances of the cities of this state.

Approved March 14, 1895. P. L. 1895, p. 310.

1630. SEC. 1. That the board of aldermen, common council or other legislative body of any city may codify the ordinances of the city, and the said ordinances when printed in book form and certified as true copies of the original ordinances of the city by the city counsel or city attorney of such city, and approved by the mayor, shall be received in all courts as evidence as fully as if the original ordinances were produced and offered in evidence.

Ordinances may be codified and printed in book form.

An act concerning cities.

Approved March 21, 1895. P. L. 1895, p. 386.

1631. SEC. 1. That it shall be lawful for the city council or other governing body of any city of this state to pass a resolution requiring the collector, or other officer of such city having charge of the collection of taxes, to pay to the city treasurer or other fiscal officer or department of such city all the moneys which may be collected for state and county taxes required to be assessed in such city, in which case, however, such city shall pay to the county collector of the county in which such city is located such state and county taxes out of the first moneys which it shall receive from the collection of taxes, and as soon as the same are collected.

Provision relating to payment of state and county taxes.

An act concerning cities.

Approved March 22, 1895. P. L. 1895, p. 646.

1632. SEC. 1. That in all cities of this state it shall and may be lawful for the president of the city council, board of aldermen or other governing body, to call special meetings of city council, board of aldermen or other governing body, when the public good shall, in his opinion, render it necessary; and on the request of one-fourth of the total membership of the city council, board of aldermen or other governing body, in writing, addressed to the president, it shall be his duty, or in his absence it shall be the duty of the city clerk, to call a special meeting.

Special meetings of governing body, how called.

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1633. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.