

his order direct, be first published and mailed in such manner as the chancellor may by his order in said action direct; and in case such person, or his heirs, devisees or personal representatives, shall not appear, plead, answer or demur within the time limited in said notice, or further allowed by the chancellor, if he shall think proper, on proof to the satisfaction of the chancellor of mailing and publication of said notice as directed, such action may proceed in all respects as though such person, or his heirs, devisees or personal representatives, had been duly named and described and served with process of subpoena in said action, and had failed to appear, plead, answer or demur to the complainant's bill of complaint within the time thereto allowed by law. (1)

All such defendants bound by orders and decrees.

68. SEC. 2. That all such defendants and all persons falling within the description of "heirs, devisees or personal representatives" of the defendant supposed to be dead, as aforesaid, shall thereupon be bound by all orders and decrees in said cause, as if they had been duly named and described and served with process within this state.

Proofs, costs and proceedings, how allowed.

69. SEC. 3. That proofs may be made, costs allowed, security ordered, and proceedings for restitution or other relief from said decrees and orders had, in like manner as the same are now allowed by law in case of absent defendants.

(1) See title CHANCERY, page 403, *ante*, Sec. 165.

Municipal Corporations.

I. OFFICERS.

1. Term of recorders in towns.
2. Office of street commissioner abolished in towns.
3. Amended by section 4.
4. Vacancy in municipal office, how created and filled.
5. Repealer.
6. County clerks to record official bonds of county and municipal officers.
7. Certificate of examination of accounts of officers may be filed with the county clerk.
8. Officers of cities and townships may contract to perform duties at less than legal salary.
9. After such contract officer not entitled to further compensation.
10. Clerks and treasurers of villages and boroughs to give bonds.
11. Repealer.
12. Member of common council, &c., not eligible to office filled by such body.
13. Members of governing body of any municipality to be elected by legal voters and not appointed by supreme court justice.
14. Repealer.
15. Salary of town treasurer to be fixed by governing body in counties of first class.
16. Act not to apply to cities.
17. Repealer.
18. Street commissioner to be appointed in towns and other municipalities.
19. Commissioner to give bond.
20. Commissioner's duties and compensation.
21. Act not to affect cities.
22. Repealer.
23. Supplied by section 25.
24. Repealer.
25. Treasurer of town, borough or township may be appointed or elected from legal voters.
26. Amended by section 29.
27. Police justice, solicitor or attorney for certain townships and municipalities in counties of second class may be removed for cause.
28. Repealer.
29. Term of police justice, solicitor or attorney in certain municipalities in counties of second class. Their salary.
30. Annual election for members of boards of commissioners and improvement commissions in towns, villages and townships.

31. Repealer.
32. Chosen freeholder to be elected from each ward in certain cities and towns.
33. Repealer.

II. ASSESSMENTS FOR LOCAL IMPROVEMENTS.

34. Notices of filing reports to state character of improvements for which assessments have been made. Notice, how given.
35. Past notices validated.
36. Amended by section 56.
37. Notice of application to circuit court for appointment of commissioners to re-assess benefits for local improvements in townships and villages. Appointment of commissioners.
38. Commissioners to ascertain total costs, damages and expenses, &c.
39. Commissioners to make assessment.
40. Commissioners to give notice of time and place of making assessments and hear parties.
41. Map of lots assessed to be made, &c.
42. Report by commissioners to circuit court. Proceedings thereon. Assessments a lien.
43. Notice of assessment to be given to each owner.
44. Assessments may be paid in yearly installments.
45. Proceedings when owners fail to pay assessments. Lands may be sold.
46. Redemption of lands after sale.
47. Proceedings where owner has paid an illegal assessment before the same has been set aside.
48. Amended by section 54.
49. Cost of improvement over benefits assessed to be raised by general tax.
50. Commissioners may employ engineer, clerk and counsel. Fees.
51. Court may make rules of procedure.
52. To what cases act shall not apply.
53. Amended by section 57.
54. Board of commissioners may issue bonds.
55. What fees to be allowed to commissioners in townships.
56. When circuit court may vacate assessment for street or sewer improvement and appoint commissioners to make new assessment.
57. Act to apply to all boards having charge of public improvements.
58. Board of commissioners authorized to issue bonds for redemption of other bonds coming due.

59. Township committees to pay such compensation, fees and costs as shall be taxed by circuit judge.
60. County clerk to record the assessment when same is filed. Fee for recording, &c.
61. Assessments heretofore made may be recorded.
62. When assessment is paid, certificate of satisfaction to be given and entered upon record.
63. Fee for certificate and satisfaction of record.
64. Repealer.
65. Assessments for trunk sewers may be made on all property within the drainage district of such trunk sewer. Provisions where benefit is direct and where it is prospective.
66. Repealer.
67. Assessments may be paid in bonds of authorities directing improvements.
68. Such bonds to be received at par.
69. Bonds so paid to be canceled.
70. Amended by section 71.
71. Commissioners of sinking fund may decide what bonds shall be received for assessment.
72. Assessments may be rebated or arbitrated in certain cases in towns and townships.
73. Appointment of arbitrators by supreme court. Award of arbitrators.
74. Costs of improvements in towns and townships to be assessed in proportion to benefits.
75. Repealer.
76. Manner of assessing costs of street improvements that lie between or run through two or more municipalities.
77. Term "municipalities" construed.
78. Repealer.
79. Assessments for lateral sewers may in certain cases be extended to property beyond the drainage area of such lateral sewer.
80. Assessments for lateral sewers may also include part of cost of constructing the sewer with which the lateral is connected.
81. Repealer.
82. Assessments for sewers shall extend throughout the whole drainage area.
83. When assessments for direct and for prospective benefits shall respectively be collectible.
84. Manner of making such assessments.
85. Principle of making assessments in vicinity of lateral sewer.
86. Assessment limited to the special and peculiar benefits.
87. When separate assessments shall be made for different sections of any sewer.
88. Duty of corporation attorney or counsel as to such assessments.
89. Ownership of lands no disqualification to commissioner.
108. Repealer.
- 108a. Boroughs may lay out, open, &c., streets and highways.
- 108b. Damages and costs to be assessed by commissioners.
- 108c. Proceedings on commissioners' report.
- 108d. Clerk to record report if confirmed. Assessments to be a lien. How collected.
- 108e. Streets and highways may be graded, graveled, &c.
- 108f. Repealer.
109. Municipal authorities of boroughs and towns may by ordinance direct streets to be paved.
110. Proceedings for assessment of benefits. Appointment of commissioners.
111. Oath of commissioners.
112. Proceedings of commissioners.
113. Nature and time of making commissioners' report.
114. Proceedings for confirmation of report.
115. Limitation of time for allowing *certiorari*.
116. Assessments to be a first lien on lands.
117. How owners may pay assessments.
118. Costs may be paid by the issue of bonds.
119. Disposition of moneys received from assessments.
120. Deficiencies to pay bonds to be raised by tax.
121. Fees for services under the act.
122. Governing body of town or township may extend road or street into an adjoining municipality.
123. Cost of such improvement, how paid for.
124. Boards of commissioners may contract for light to streets.
125. Towns and boroughs may sell certain lands acquired, but not needed for street purposes.
126. Deeds, how made.
127. Boroughs and villages may issue bonds for improving roads, streets, &c.
128. Repealer.
129. Boards of commissioners, &c., may regulate driving upon the public streets.
130. Towns, boroughs, &c., may issue bonds for improvement of roads, streets, &c.
131. Election as to issue of bonds to be ordered.
132. If issue is ordered, governing body shall proceed with improvement.
133. Payment of bonds, how provided for.
134. Construction of word "municipality."
135. Municipalities authorized to pave and improve streets. Election to be called by resolution by governing body.
136. Resolution to be published.
137. Manner of conducting election.
138. Form of ballots.
139. If majority are against improving, no other election within one year.
140. If majority favor improving, governing body to advertise for bids.
141. Cost of improvement to be ascertained and filed.
142. Commissioners to be appointed to assess benefits.
143. Oath of commissioners.
144. Proceedings before commissioners.
145. Commissioners to make report.
146. Proceedings on the coming in of the report.
147. Limit of time for allowing *certiorari*.
148. Assessment to be first lien on lands.
149. Collector to collect assessments.
150. Proceedings to collect delinquent assessments.
151. Disposition of moneys collected.
152. Excess of cost over assessments paid out of what fund.
153. Notes may be issued in anticipation of collection of assessments.
154. Improvements not to be commenced until twenty-five per cent. of cost is deposited in a special fund.
155. Powers conferred by this act are in addition to charter powers.
156. Repealer.
157. Streets in towns and townships may be laid out, opened, widened, &c.
158. Commissioners to make awards, &c.
159. Proceedings by commissioners.
160. Awards of commissioners, how paid.
161. Proceedings where awards of damages and assessments for benefits are made against or in favor of the same person.
162. Proceedings where any person is dissatisfied with his award.
163. Amended by section 185.
164. Resolution for improving streets in municipality governed by commissioners to be published.

III. STREETS AND SIDEWALKS.

90. Ordinances may be passed for removal of snow, &c., from sidewalks.
91. On owner's failure to remove, street commissioner may do it.
92. Costs and expenses of removing, how collected.
93. Authorities in towns and boroughs may provide for repairing walks.
94. Street commissioner to repair when owner fails.
95. Cost of repairing, how collected.
96. Removal of snow, &c., from sidewalks in towns and boroughs.
97. Street commissioner to remove when owner fails to do so.
98. Cost of removal, how collected.
99. When proceedings to open street, &c., have been illegal they may be re-instituted.
100. On new assessment costs to be assessed on lands benefited.
101. Assessments paid before re-institution to be credited on new assessment, &c.
102. When assessments shall be paid. Proceedings to collect.
103. Proceedings for repairing sidewalks in towns, villages and townships.
104. Collector to notify owner of amount of assessment. Payment, how enforced.
105. Notices of ordinance and assessment, how served.
106. Upon payment of assessment, record to be discharged.
107. Streets may be lighted with gas or otherwise and annual expense thereof raised by tax.

165. Election concerning such improvement. When and how held.
166. Form of ballot.
167. No action if majority of ballots are against improvement.
168. Procedure if ballots are in favor of improvement.
169. Cost of improvement to be filed.
170. Commissioners to assess benefits.
171. Oath of commissioners.
172. Proceedings by commissioners.
173. Commissioners to make report.
174. Proceedings on coming in of report.
175. Limitation of time for allowing *certiorari*.
176. Assessments on lands.
177. Collector to collect assessments.
178. Proceedings to collect delinquent assessments.
179. Disposition of moneys collected.
180. License fees set apart as special fund toward cost of improvements. Bonds may be issued.
181. Notes may be issued.
182. Twenty-five per cent. of cost to be deposited in the special fund.
183. Powers conferred to be in addition to charter powers.
184. Repealer.
185. Governing body of municipality governed by commissioners may by resolution order an election concerning street improvements.
186. Previous contracts validated.
187. Pending suits and proceedings not affected by this amendatory act.
188. Towns and townships adjacent to a city may lay out, open and construct roads or streets connecting with such city.
189. Council or town committee to adopt resolution by a two-thirds vote. Appointment and oath of commissioners.
190. Proceedings by commissioners.
191. Report of commissioners to be filed. Proceedings thereafter.
192. Proceedings for acquiring lands.
193. Appeal to circuit court.
194. Costs of improvement may be provided for by the issue of bonds.
195. Contracts for making the improvements may be entered into.
196. Payments on account made by improvement certificates.
197. Inspector of work may be appointed.
198. Proceedings for assessing benefits. Assessments to be a first lien.
199. Limitation of time for allowing *certiorari*.
200. Redemption of bonds and improvement certificates, how provided for.
201. Power to issue bonds for redemption of improvement certificates.
202. Not necessary to obtain consent of adjacent city to extend road or street.
203. Certain towns, &c., having power to lay out streets in conformity to official map, may amend such map.
204. Ordinance for such purpose not to be passed except on petition of owners. Objectors to be heard.
205. Such towns, &c., may accept new streets dedicated by land-owners.
206. Repealer.
207. Governing bodies of villages and townships may accept dedicated streets.
208. Acceptance to be recorded in county clerk's office.
209. Papers and maps to be recorded in books.
210. Expense of recording, how provided for.
211. Repealer.
212. Certain roads and streets in towns and townships may be widened and improved.
213. Surveys, maps, &c., to be made, ordinance adopted, &c.
214. Appointment of commissioners to award damages. Proceedings by commissioners.
215. Duties of town clerks and city or town collectors. Collection of delinquent assessments.
216. Moneys collected by adjacent cities and towns to be a separate fund.
217. Governing body may borrow money temporarily.
218. When governing body may authorize improvement to be made.
219. Expenses incurred to be assessed on lands specially benefited. Appointment and duties of commissioners.
220. Proceedings for collection of assessments.
221. Disposition of moneys collected.
222. Governing body may borrow money on notes or certificates.
223. Bonds may be issued.
224. Repealer.
225. Towns and townships in certain cases may accept lands dedicated to street uses.
226. Deed of dedication to be filed and accepted.
227. Repealer.
228. Municipalities may appoint commissioners to plant and care for shade trees.
229. Appointment and term of commissioners.
230. Notice of improvement to be published.
231. Cost of such improvement, how paid for.
232. Cost of caring for trees, how provided for.
233. Contracts for lighting streets for term not exceeding five years may be made.
234. Previous contracts validated.
235. Provisions not applicable to certain municipalities.
236. Repealer.
237. Provisions for changing name of street in any township or borough.
238. Provisions for enforcing use of broad-tired wheels on draft wagons, &c.
239. Certain towns and townships may make contracts for lighting streets and public buildings.
240. Moneys for such purposes, how provided.
241. Repealer.
242. Municipalities may cause public streets and places to be lighted, and make contracts therefor.
243. Repealer.
244. Municipalities, except first-class cities, may issue certificates of indebtedness for sewer improvements.
245. Towns and boroughs may vacate, alter, &c., streets, roads and alleys.
246. Repealer.
247. Townships, boroughs and borough commissions may fix and alter street grades.
248. Grades to be marked by monuments.
249. Expenses thereof, how paid.

IV. SEWERS.

250. Boards of commissioners may contract for removal of sewage and construction of sewers.
251. Persons subject to rules of commissioners.
252. Board of commissioners may purchase system of sewerage.
253. Towns and municipalities governed by commissions may construct sewers and condemn private lands necessary therefor.
254. Cost to be assessed on lands benefited. Proceedings for assessment.
255. Amended by section 259.
256. Excess of cost over benefits to be paid by tax.
257. Certificates of indebtedness may be issued.
258. Notice to owners of lands taken, how served.
259. Assessments to be a lien on lands.
260. Provisions extended to assessments heretofore made.
261. Council and township committee of adjoining municipalities may enter into contract for connection and discharge of sewers and drains.
262. Bonds may be issued therefor.
263. Cost thereof to be included in assessments.
264. Amended by sections 277 and 280.
265. Amended by section 281.
266. Amended by section 282.
267. Conditions under which sewer may be constructed.
268. Amended by sections 278 and 293.
269. Amended by section 283.
270. Amended by section 284.
271. Bonds may be issued.
272. Cost of improvement to be assessed on lands benefited.
273. Assessment to be a lien on lands.
274. Majority of commissioners to determine questions, &c.
275. Amended by sections 279 and 285.
276. Amended by section 286.
277. Amended by section 280.
278. Amended by section 293.
279. Amended by section 285.
280. Township and municipal authorities may appoint commissioners for certain purposes in connection with sewers.
281. Powers and duties of such commissioners.
282. Proceedings after the filing of written objections to construction of sewer.

283. Work to be done by contract.
284. Apportionment of costs between the municipalities.
285. Provisions where sewer empties into any creek.
286. When powers of this act may be vested in any particular board or department of any municipality.
287. Proceedings not invalidated by reason of any commissioner being interested.
288. Commissioners to fix expense to be borne by each municipality.
289. When writ of *certiorari* not to be allowed.
290. By whom sewers shall be maintained.
291. What lands shall be included in drainage area.
292. Repealer.
293. Commissioners to take lands for construction of sewer upon paying owners for same and for damages.
294. Proceedings for appointing commissioners in condemnation. Duties of such commissioners.
295. Appeal.
296. Repealer.
297. Any town or township may, in certain cases, build a sewer through an adjoining municipality.
298. Towns and villages may provide general system of sewerage and drainage.
299. Upon petition, resolution of intention to construct sewer may be adopted and ordinance passed.
300. Commissioners to estimate and assess benefits to be appointed.
301. Meeting and procedure of commissioners.
302. Commissioners to make report.
303. Proceedings on coming in of report.
304. Limitation of time for allowing writ of *certiorari*.
305. Assessments to be a first lien on lands.
306. Improvement certificates may be issued.
307. Statement of amount required to be paid by town or village to be furnished to assessor. Duties of assessor and collector.
308. Amount required to be paid to be incorporated in tax levy.
309. Election to be held to determine whether bonds shall be issued.
310. When bonds may be issued.
311. Owners may have lands released upon payment of assessment.
312. Proceedings for payment of cost when voters decide against issuing bonds.
313. Compensation of commissioners.
314. Acceptance or rejection of act to be submitted to voters.
315. Corporations may be formed to construct and operate systems of sewerage.
316. How corporation shall be organized.
317. Incorporation effected on filing certificate.
318. Corporation may enter on lands for purpose of examination, &c.
319. Proceedings for condemnation of lands.
320. Payment of damages awarded to be made before taking possession.
321. Appeal from award.
322. Business of corporation, how managed. Election of directors. Stockholders may vote by proxy.
323. Officers and their election.
324. Capital stock, how fixed.
325. Penalty for injury to works of corporation.
326. Consent of corporate authorities may be granted on conditions.
327. Corporation may lay pipes in streets, &c.
328. Company authorized to contract with property-owners.
329. Time of commencing and completing the construction.
330. Requisites of certificate of incorporation. Certificate to be filed.
331. Towns, villages and municipalities may acquire lands to be used as sewage receptacle, &c.
332. When lands for such receptacle, &c., are in an adjoining township, its consent must be had.
333. Repealer.
334. Governing body of borough or borough commission to pay contract price of sewer constructed without authority of law.
335. Bonds may be issued.
336. Commissioners to be appointed to assess benefits.
337. Oath of commissioners.
338. Proceedings by commissioners.
339. Form and nature of commissioners' report. Excess of costs over benefits to be paid by tax.
340. Proceedings on coming in of report.
341. Limitation of time for allowing writ of *certiorari*.
342. Assessments to be first lien on lands. Payment of assessments may be made in installments.
343. Assessments may be collected by sale of lands.
344. Act applicable to any borough or borough commission now in existence.
345. Compensation of commissioners.
346. Town or municipal bonds issued for construction of sewers under unconstitutional laws validated.
347. Inclosed sewers may be constructed through tide water creeks in certain towns, villages and municipalities. Creek may be filled up.
348. Costs to be assessed on properties benefited.
349. Costs in excess of benefits to be paid by tax. Issue of bonds.
350. Necessary lands may be acquired by condemnation.
351. Improvement certificates may be issued.

V. WATER-SUPPLY.

352. Amended by sections 368, 371 and 373.
353. Company organized to operate water works to make certificate and file the same with consent of corporate authorities.
354. When incorporation effected. Powers.
355. Corporation may enter on lands, &c.
356. Proceedings for condemnation of lands.
357. Damages awarded to be paid before taking possession, &c.
358. Proceedings in case of appeal.
359. Directors to be stockholders, &c.
360. Election of officers, &c.
361. Capital stock, how fixed.
362. Penalty for injury done to works.
363. Corporation may lay pipes in streets, &c.
364. May sell and dispose of water.
365. Time for commencing and completing works.
366. Amended by section 372.
367. Amended by section 370.
368. Amended by sections 371 and 373.
369. Aqueduct or water company may extend mains beyond municipal limits.
370. Company may issue bonds.
371. Amended by section 373.
372. Aqueduct companies may extend works.
373. Number of persons necessary to form a corporation.
374. Amended by section 375.
375. Municipal authorities to use their discretion in fixing sums to be assessed on vacant lots, &c.
376. In lieu of assessing vacant lots, &c., fire and water districts may be created.
377. Gross sum may be assessed on such districts.
378. Amended by section 379.
379. Proceedings for assessing and collecting such gross sum.
380. Moneys received to be paid over to authorities of water works.
381. Water rents paid in advance to be refunded when company fails to supply water.
382. Word "consumer" construed.
383. Amended by section 384.
384. Municipal corporation may contract for water-supply.
385. Municipalities may issue bonds for expenses of laying water pipes, &c.
386. Supply of water, how regulated. Disposition of water rents.
387. Sinking fund commissioners, how constituted, and their duties.
388. Pipes may be laid in streets of adjacent towns, &c.
389. Authorities may contract for water-supply.
390. Repealer.
391. Governor to appoint four commissioners on storage of waters.
392. Commissioners to organize and choose a fifth commissioner, &c.
393. Commissioners to determine upon a plan for storage of waters.
394. Authorities of cities and towns may apply to commissioners to determine upon plan for joint water-supply. Expenses, how paid.
395. Commissioners may engage engineers, &c. Plans, &c., to be submitted to the municipalities. When plans are accepted, bill to be drawn and presented to legislature.

396. Additional powers of commissioners.
 397. Compensation of commissioners and engineer.
 398. Commissioners may commence proceedings to restrain waste of waters.
 399. Authorities may remit water rates to charitable institutions.
 400. Municipal corporations may contract with adjoining municipalities for water-supply.
 401. Water-supply under rules and regulations.
 402. Municipalities owning water works may supply other municipalities.
 403. Acceptance or rejection of act to be submitted to voters.
 404. Repealer.
 405. Board having charge of water-supply may make contract for water.
 406. Repealer.
 407. Special election in towns and townships to be called upon petition to decide upon construction of water works.
 408. Time and manner of conducting election.
 409. Such construction to be made on authority of majority of voters. Work done by contract.
 410. Corporate authorities to have power to construct and maintain such reservoirs, &c.
 411. Proceedings to condemn lands.
 412. Court may set aside the award of appraisers and order trial by jury.
 413. Repairs to pipes laid on private lands may be made.
 414. Rules may be made for supplying water to individuals. Powers when rules are violated.
 415. Water rents, how collected, &c.
 416. Employment of persons to manage water works.
 417. Erection of hydrants in streets.
 418. Penalty for injury to water works.
 419. Penalty for polluting reservoir.
 420. Bonds may be issued.
 421. Bonds not taxable.
 422. Excess of water rents over expenses, how applied.
 423. Deficiency in water debt to be raised by tax.
 424. Duties of treasurer.
 425. Appointment of engineers, officers, &c., and their duties, powers and compensation.
 426. Purposes for which ordinances may be passed.
 427. To what streets, &c., act shall not apply.

VI. PUBLIC BUILDINGS.

428. Municipalities may purchase land and erect town, township or ward hall.
 429. How hall shall be paid for.
 430. When plans may be made and bids advertised for.
 431. How hall shall be taken care of.
 432. Rules, &c., for use of hall.
 433. Building may be rented, &c.
 434. Amended by section 437.
 435. Amended by section 438.
 436. Amended by section 439.
 437. Municipalities may erect armories for use of national guard.
 438. Site for armory, how selected and paid for.
 439. Cost thereof to be raised in two annual tax levies.
 440. Towns and townships in certain cases may issue bonds for certain public buildings.
 441. Interest on bonds raised by tax.
 442. Amended by section 444.
 443. Amended by section 445.
 444. Any municipality organized under special act may erect public buildings.
 445. Bonds may be issued in certain cases for public buildings.
 446. Trustees of fire department may convey real estate to municipality.
 447. Repealer.
 448. Certain boroughs may erect public hall.
 449. Bonds may be issued.
 450. Form and denomination of bonds.
 451. Payment of bonds, how provided for.

VII. MUNICIPAL BONDS.

452. Bonds may be issued for excess of cost of local improvements over benefits.
 453. Obligations may be issued for amount expended in excess of appropriation.

454. Amended by section 456.
 455. Provision for payment of bonds issued for renewal of maturing bonds.
 456. Certain matured and maturing bonds may be renewed.
 457. Issue of street improvement bonds authorized.
 458. Proceeds, how appropriated.
 459. Payment of interest on bonds and investment of surplus.
 460. Townships and boroughs may issue bonds for payment of street improvement certificates.
 461. Bonds not to be sold at less than par, &c.
 462. Assessments collected pledged to payment of bonds.
 463. Redemption of bonds provided for by taxation.
 464. Renewal street improvement bonds may be issued.
 465. Provisions of former act made applicable.
 466. Bonds may be issued in anticipation of collection of assessments for benefits.
 467. Denomination of bonds, &c.
 468. When such bonds may be issued.
 469. Money received for assessments, how applied.
 470. Sinking fund to be provided.
 471. Assessments may be paid in equal annual installments, &c.
 472. Limitation of such issue.
 473. Certain matured and maturing bonds may be renewed.
 474. Interest thereon, how provided for. Sale of bonds.
 475. Repealer.
 476. Principal and interest provided for by tax.
 477. Application of surplus taxes to redemption of such bonds.
 478. Repealer.
 479. Town or city may issue bonds to erect buildings and equip fire department.
 480. Form and amount of bonds.
 481. Redemption of bonds, how provided for.
 482. Repealer.
 483. Amended by section 485.
 484. Repealer.
 485. Unlawful to issue bonds when default is made in payment of past-due bonds or county or state tax.
 486. Repealer.
 487. County collector may, in certain cases, receive bonds of town or city of third class in payment of state and county taxes.
 488. Form of bonds.
 489. Repealer.
 490. Counties and municipalities may convert coupon bonds into registered bonds.
 491. Bonds may be reconverted into coupon bonds.
 492. Repealer.
 493. Bonds may be issued for excess of costs of improvement over benefits.
 494. Bonds not to exceed \$75,000.
 495. Such bonds may exceed limitation in charter as to bonded indebtedness.
 496. Towns and townships may renew sixty per cent. of matured and maturing bonds. Form and redemption of bonds.
 497. Interest on bonds, how provided for.
 498. Repealer.

VIII. WARDS.

499. Certain towns, townships and boroughs may be divided into wards.
 500. Representation of wards in the governing body.
 501. Towns, townships and boroughs already divided into wards may be redivided.
 502. Representation of wards in governing body after such redivision.
 503. Repealer.
 504. Provisions for redivision of wards.
 505. How governing body shall be constituted and elected after such redivision.
 506. Provisions for improvement of streets, &c., within any particular ward.
 507. Repealer.
 508. Certain towns, boroughs and townships may be divided into wards.
 509. Constitution of governing body after such division.
 510. Vacancies in office, how filled.
 511. Each ward an election district.
 512. Duties of election board.
 513. Act not to affect cities.
 514. Repealer.

IX. LICENSES.

- 515. Amended by section 517.
- 516. Amended by section 517.
- 517. Common council, &c., may pass ordinances to license hacks, cars, auctioneers, &c.
- 518. Cities and boroughs may provide by ordinance for licensing auctions and auctioneers.
- 519. Repealer.
- 520. Appointment of milk inspectors and licenses to milk dealers.
- 521. Effect of license.
- 522. Fines and penalties may be imposed.
- 523. License fees, how expended.
- 524. Powers and duties of milk inspector.
- 525. Milk inspector to make complaint against persons violating ordinance.
- 526. Milk inspector to have same power as state inspector.
- 527. Persons twice convicted of violating state law not allowed to sell milk within two years.
- 528. Repealer.
- 529. Municipal authorities may license persons to sprinkle streets.
- 530. Any fire engine company, &c., may be so licensed.
- 531. Amended by section 532.
- 532. Municipal authorities may license cartmen, porters, hacks, &c.
- 533. License fee for dogs may be imposed.
- 534. Such license fees, how collected.
- 535. Such license fees, when collected, how appropriated.
- 536. Construction of term "municipality."
- 537. Repealer.

X. MISCELLANEOUS ACTS.

- 538. No bill against county or municipality to be paid unless itemized and sworn to.
- 539. Amended by section 540.
- 540. Justice of supreme court may make summary investigation into affairs of county, city, &c.
- 541. Amended by section 558.
- 542. Amended by section 559.
- 543. Collector of localities governed by commissioners to give bond.
- 544. Powers, duties and compensation of assessors.
- 545. Officers to take oath.
- 546. Vacancies in office, how filled.
- 547. Appointment and duties of clerk of commissioners.
- 548. Appointment, powers, duties and compensation of police justice.
- 549. Policemen to possess powers of constables.
- 550. Duties of election officers.
- 551. Amended by section 560.
- 552. Powers and duties of board of commissioners.
- 553. Amended by section 561.
- 554. Township committee to pay moneys collected for road purposes to board of commissioners.
- 555. County clerk to pay money received for licenses to treasurer of board of commissioners.
- 556. Amended by section 562.
- 557. Amended by section 563.
- 558. Elective members of board to be legal voters.
- 559. Annual election for collector of taxes and board of assessors.
- 560. Commissioners may raise money by tax.
- 561. Commissioners may lay out streets, roads, &c.
- 562. Repealer.
- 563. Acceptance or rejection of act to be submitted to voters.
- 564. Election of commissioners of appeal.
- 565. Vacancies, how filled.
- 566. Municipal title may be adopted and election day changed.
- 567. Title designating the board of commissioners.
- 568. Repealer.
- 569. Change of name of commissioners, how effected.
- 570. Election for such purpose, how conducted.
- 571. Governing board, how styled.
- 572. Provisions of charter not affected by change of name.
- 573. Repealer.
- 574. Unexpended balances of taxes in cities, how disposed of.
- 575. Act not to be construed to increase limit of taxation.
- 576. Date of electing board of commissioners may be changed, &c.
- 577. Ordinance for such change to be published.
- 578. Certain lands held for burial purposes may be devoted to other public uses.
- 579. Common council, &c., to provide for disinterment of bodies.
- 580. Improvement societies, how incorporated in towns, villages and boroughs.
- 581. Election of trustees.
- 582. Certificate of association to be filed.
- 583. Towns and villages may change their names.
- 584. County clerk to record proceedings.
- 585. Amended by section 588.
- 586. Power of municipalities to increase amount of taxes limited in charter.
- 587. The charter of any city to extend to all annexed municipalities and territories.
- 588. Property of annexed territories to be vested in the consolidated municipality.
- 589. City liable for indebtedness of annexed municipalities. Provisions as to paupers.
- 590. Allotment and division of paupers, property and indebtedness where part only of a municipality or township is annexed.
- 591. City entitled to its proportion of surplus revenue of general government.
- 592. Officers to continue in office until expiration of terms.
- 593. Proceedings for division of annexed territory into wards.
- 594. Wards to be divided into election districts. Special election in such districts.
- 595. Election, how conducted.
- 596. Officers to be elected at special election.
- 597. When elected offices of former officers abolished.
- 598. Towns, boroughs, villages, &c., may by ordinance change time of holding municipal elections.
- 599. Notice of considering such ordinance to be given.
- 600. What objections shall defeat ordinance.
- 601. By what vote ordinance may be passed.
- 602. Terms of officers not shortened by such ordinance except on consent.
- 603. When next election shall be held if all officers do not so consent.
- 604. When future elections shall be held.
- 605. Terms of officers elected at first election.
- 606. Date when governing body shall organize.
- 607. Terms of officers elected at future elections.
- 608. Repealer.
- 609. County clerks to record bonds given by municipal officers.
- 610. On application, justice of supreme court may order suit to be brought on any such bond.
- 611. Bonds not recorded to continue valid.
- 612. Bonds may be prosecuted without application to justice of supreme court.
- 613. Charters of cities and towns to which municipalities and territories have been annexed extended to such annexed parts.
- 614. Property of annexed territories vested in the consolidated municipality.
- 615. City or town liable for indebtedness of annexed townships. Disposition of paupers.
- 616. Provision for taking account of property and debts of annexed townships.
- 617. Officers to hold office until expiration of terms.
- 618. Provision for dividing annexed townships into wards.
- 619. Wards to be divided into election districts. Special election therein.
- 620. Manner of conducting elections.
- 621. Election of officers therein. Terms of such officers.
- 622. Offices heretofore existing abolished on new election.
- 623. Municipal elections in counties of the first class to be held on second Tuesday in April. Terms of officers to commence when.
- 624. Duration of such terms.
- 625. Repealer.
- 626. Word "municipality" construed.
- 627. Certain municipalities may pass ordinances upon certain subjects.
- 628. Act not to affect cities.
- 629. Repealer.
- 630. Certain municipal elections to be held on second Tuesday in April. Terms of office to begin when.
- 631. Duration of such terms.
- 632. Word "municipality" construed.
- 633. Repealer.
- 634. Governing body of municipality may accept certain trusts respecting free libraries, &c.

635. Municipality not to be liable for misappropriation of funds. 641. Repealer.
 636. Repealer. 642. Manner of giving notice of intention to adopt ordinance for public improvement required in all cases.
 637. Municipal elections in certain cases may be changed to first Monday in May. 643. What publication of such notice shall be sufficient.
 638. Proceedings for annexation of territory to third-class cities and towns. 644. Unlawful to locate, erect, &c., pest-house, crematory, &c., without municipal consent.
 639. When annexation shall take effect. 645. Repealer.
 640. When annexed territory shall be plotted on city map.

I. Officers.

An act concerning towns and townships in the state of New Jersey.

P. L. 1876, p. 89.

Approved April 10, 1876.

Term of recorders in towns.

1. That hereafter, in all incorporated towns of six thousand inhabitants or less, where recorders exercising judicial powers are elected, that the term of said office shall be two years.

Office of street commissioner abolished in towns.

2. That in all incorporate towns of six thousand inhabitants or less, where the office of street commissioner has been created as an elective office, that the said office be and is hereby abolished; *provided, however*, that the town council may appoint by an ordinance a suitable person to perform the duties of street commissioner.

An act to regulate term of office in municipalities.

P. L. 1890, p. 309.

Approved March 12, 1890.

3. SEC. 1. [Amended by Sec. 4, *post*.]

Supplement.

P. L. 1882, p. 85.

Approved March 10, 1882.

4. SEC. 1. That section one of "An act to regulate term of office in municipalities," to which this act is a supplement, be and the same is hereby amended so as to read as follows, viz.:

Vacancy in municipal office, how created and filled.

[That whenever any officer of any municipal government in this state shall remove from any such municipality, and shall no longer be a bona fide resident therein, or whenever the resignation of such officer shall have been accepted by the authority competent to appoint his successor, such removal and non-residence or such resignation shall constitute a vacancy in the office held by such non-resident or person who shall have resigned, and from the time of such removal or resignation, such officer shall not exercise any of the duties of the office so made vacant; and such municipality, by its lawfully-constituted authority, shall immediately proceed to fill such vacancy in the manner and form prescribed by law for the filling of such vacancies; *provided*, that this act shall not apply to the removal of any such officer from one ward to another ward of any such municipality, unless otherwise provided by any special charter of any city in this state; and *provided further*, that nothing in this act shall be so construed as to prevent a non-resident of any municipality in this state from holding office as counsel or attorney of such municipality, nor shall such offices be deemed vacant by reason of the removal or non-residence of such counsel or attorney of such municipality.]

Proviso.

Proviso.

Repealer.

5. SEC. 2. 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 be deemed to be a public act and shall take effect immediately.

An act in relation to official bonds.

P. L. 1881, p. 15.

Approved February 5, 1881.

County clerks to record the official bonds of county and municipal officers.

6. SEC. 1. That if the execution of the official bond of any officer of any county, city, incorporated town, village, borough or other municipality, or of any township in this state, shall be duly acknowledged and proven in the manner provided by law for taking the acknowledgment and proof of deeds, it shall be lawful for the clerk of the county wherein such officer resides to

record such bond, with the acknowledgment and proof of the execution of the same, in a book labeled "public officers' bonds," which book shall be provided by him at the expense of the county, and shall be indexed in the names of the officers and their sureties, and of the corporations to which the bonds are respectively given; for which service the said clerk shall be entitled to demand and receive the sum of one dollar; and a copy of such record, duly certified under the hand and seal of such clerk, for the time being, shall be evidence in all courts and places the same as if the original bond were produced.

Fee for recording.

7. SEC. 2. That if the accounts of any such officer shall be at any time examined by the authorities of the corporation to whom his bond is given, or by the proper board, committee or officer of such corporation, and shall be by such board, committee or officer certified to be correct, and such certificate shall be duly acknowledged and proved, in the same manner as the bond, it shall be lawful for the clerk of the county to file said certificate in his office, and to note the substance thereof on the side or bottom margin of the page containing the record of the bond, for the information of all concerned.

Certificate of the examination of accounts of officers may be filed with county clerk.

An act concerning the salaries of officers in cities and townships of this state.

Approved April 14, 1884.

P. L. 1884, p. 161.

8. SEC. 1. That it shall be lawful for the proper authorities in any city or township of this state to enter into and make a contract with any officer of such city or township to perform the duties of his office at a salary less than that fixed by any law affecting such city or township, and that when such contract shall be entered into as aforesaid, such officer shall not be entitled to receive or recover from such township any other compensation than shall be fixed by such contract. (a)

Officers of cities and townships may contract to perform duties at less than legal salary.

9. SEC. 2. That where any officer shall have entered into an agreement with any township or city to perform the duties of his office for a compensation less than that provided by law, such officer shall not be entitled to receive or recover from such city or township any further compensation than shall have been so agreed upon, but such agreement shall be binding upon the parties thereto.

After such contract, officer not entitled to further compensation.

An act to provide for the execution and giving of official bonds by clerks and treasurers of boroughs and villages.

Approved February 23, 1885.

P. L. 1885, p. 87.

10. SEC. 1. That in all incorporated villages and boroughs in this state where, by existing general or special laws, there is the office of village or borough clerk, or the office of village or borough treasurer, the clerks and the treasurers of such villages or boroughs before entering upon the duties of their respective offices, shall make and execute their bonds to their respective villages or boroughs in their corporate names, for the true and faithful performance of their respective duties in such form and for such sums, and with such sufficient freehold securities as the mayor and council, board of trustees, or other governing body of such village or borough shall direct and require.

Clerks and treasurers of boroughs and villages to give bonds.

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

Repealer.

(a) See *Edmonson v. Jersey City*, 19 Vr. 121.

An act relating to elections and appointments to office hereafter to be made by any board of aldermen, common council, township committee or other municipal board or body.

P. L. 1885, p. 178.

Approved March 31, 1885.

Member of common council, &c., not eligible to office filled by such body.

12. SEC. 1. That hereafter no member of any board of aldermen, common council, township committee or other municipal board^(a) or body shall, during the term for which he shall have been elected such member, be eligible for election or appointment to any office that is now or hereafter may be by law required to be filled by any such board, council, committee or body of which he is such member; *provided, however,* that this act shall not apply to any offices now required by law to be filled from any such appointing body.

An act providing for the election of the members of a municipal government by the people.

P. L. 1889, p. 154.

Approved April 3, 1889.

Members of governing body of any municipality to be elected by legal voters, and not appointed by supreme court justice.

13. SEC. 1. That in every borough, police, sanitary and improvement commission, or other municipality, where the members of the governing board are in part elected by the legal voters and in part appointed by a justice of the supreme court, it shall be lawful, at the next general election of officers of any such municipality, to elect all the members of the governing board by the legal voters of the district, at the same time and in the same manner as the elective members of such board are now required to be chosen; and the appointive members shall cease to hold their offices from the date of such election; and the persons elected in their stead shall be chosen from the municipality at large.

Repealer.

14. 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 enable certain municipal corporations of this state to regulate the salaries of certain of its officers.

P. L. 1891, p. 307.

Approved April 2, 1891.

Salary of town treasurer to be fixed by governing body in counties of first class.

15. SEC. 1. That it shall be lawful for the town council or other legislative or governing body of any incorporated town or other municipal corporation within counties of the first class of this state, incorporated or existing under and by virtue of any law of this state, to fix by resolution the annual salaries of the treasurer of such town; *provided,* that the sum so fixed shall not exceed one thousand dollars, and by resolution to fix the annual salary of the clerk of said town; *provided,* that the sum so fixed shall not exceed the sum of one thousand dollars, and by resolution fix the annual salary of the collector of taxes and assessments of said town; *provided,* that the sum so fixed shall not exceed one thousand dollars, and by resolution to fix the annual salary of the recorder of said town; *provided,* that the sum so fixed shall not exceed four hundred dollars, and by resolution to fix the annual salary of the assessor of said town; *provided,* that the sum so fixed shall not exceed five hundred dollars.

Act not to apply to cities.
Repealer.

16. SEC. 2. That this act shall not apply to cities.

17. SEC. 3. That all acts and parts of acts, general, special, local or private, inconsistent herewith, be and the same are hereby repealed.

An act to enable certain municipal corporations to appoint a street commissioner.

P. L. 1891, p. 308.

Approved April 2, 1891.

Street commissioner to be appointed in towns and other municipalities.

18. SEC. 1. That the town council or other legislative or governing body of any town or other municipal corporation in this state, incorporated or existing under and by virtue of any special act of incorporation, may an-

(a) The words "other municipal board," following the particular designation of certain bodies, includes all bodies or boards having municipal governmental functions, whether

legislative or administrative, and so was held to include the board of education of Bayonne. *Doyle v. Bayonne*, 25 Pr. 313.

nually within thirty days after its organization to appoint an officer, who shall be known and designated as a street commissioner, or designate the chairman of the committee on streets and highways to discharge the duties thereof, who shall hold his office during the pleasure of the council or other legislative or governing body of said town, and until his successor shall be duly appointed and qualified.

19. SEC. 2. That every person appointed to such office as aforesaid shall, within ten days after the date of his appointment, enter in bonds to the town by its corporate name, and in such sum and with such sureties as shall be required and approved of by the council or other legislative or governing body, conditioned for the faithful performance of all duties required of him as such officer by law, and in case he shall neglect so to do, the council or other legislative or governing body may rescind and vacate such appointment, and make a new appointment to said office.

Commissioner to give bond.

20. SEC. 3. That the council or other legislative or governing body may by ordinance prescribe the duties and the compensation of such officer; *provided*, that the compensation shall be fixed and the duties prescribed previous to the appointment of said officer.

Commissioner's duties and compensation.

21. SEC. 4. That this act shall not affect cities.

Not to affect cities.

22. SEC. 5. That all acts and parts of acts, general, special, local, public or private, inconsistent herewith, be and the same are hereby repealed.

Repealer.

An act respecting the office of treasurer in certain towns, boroughs and townships.

Approved April 14, 1891.

P. L. 1891, p. 374.

23. SEC. 1. [Supplied by Sec. 25, *post*.]

24. SEC. 2. That all acts and parts of acts, general special, local, public or private, inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

Amendatory act.

Approved April 3, 1894.

P. L. 1894, p. 34.

25. SEC. 1. That section one of said act be and the same is hereby amended so as to read as follows, to wit:

[That from and after the passage of this act it shall not be necessary in any town or borough or township in this state, for the treasurer of such town, borough or township to be chosen from among the members of the council, township committee or other governing body thereof, and it shall be lawful to appoint or elect any legal voter of such town, borough or township to be treasurer thereof.]

Treasurer of town, borough or township may be appointed or elected from legal voters.

An act relating to the appointment or election of attorneys or solicitors in certain townships and municipalities in this state.

Approved April 18, 1891.

P. L. 1891, p. 509.

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

27. SEC. 2. That the police justice, solicitor or attorney appointed or elected as aforesaid may be removed from office by resolution of the governing body of such town, township, police, sanitary and improvement commission or borough for malfeasance, non-feasance, disability or other good cause shown upon complaint in writing to the governing body of such town, township, police, sanitary and improvement commission and borough, setting forth such cause, and supported by one or more affidavits of the truth of the facts therein alleged; *provided*, 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 a majority of all the members of such governing body shall vote for such removal.

Police justice, solicitor or attorney for certain townships and municipalities in counties of second class may be removed for cause.

Proviso.

28. 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.

Amendatory act.

P. L. 1894, p. 494.

Passed May 24, 1894.

29. SEC. 1. That section first of an act entitled "An act relating to the appointment or election of attorneys or solicitors in certain townships and municipalities in this state," which act was approved April eighteenth, one thousand eight hundred and ninety-one, and which section reads as follows [see Sec. 26, *ante*], be amended so that the same shall read as follows :

Term of police justice, solicitor or attorney in certain municipalities in counties of second class.

[That in every town, township, police, sanitary and improvement commission and borough in the counties of the second class in this state, the police justice, attorney or solicitor of said town, township, police, sanitary and improvement commission and borough appointed or elected after the passage of this act shall hold their office for the term of one year, and upon the election of said police justice, attorney or solicitor, the township committee or the governing board of the town, township commission or borough shall determine and fix the annual salary of said police justice, attorney or solicitor during the said term of office.]

Salary.

An act respecting elections for members of boards of commissioners or improvement commissions.

P. L. 1893, p. 193.

Approved March 10, 1893.

Annual election for members of boards of commissioners and improvement commissions in towns, villages and townships.

30. SEC. 1. That it shall be lawful for any board of commissioners or improvement commission in any town or village or within any townships in this state to hold the annual election for commissioners in the manner provided in the acts creating such boards of commissioners or improvement commissions and the supplements thereto, any act to the contrary notwithstanding ; *and provided further*, that every citizen of this state entitled to vote at any general election for members of the legislature, and within the limits of the authority of such boards of commissioners, shall be entitled to vote at any such election for commissioners.

Repealer.

31. 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 provide for the election of chosen freeholders in certain cities and incorporated towns in this state.

P. L. 1895, p. 268.

Approved March 13, 1895.

Chosen freeholder to be elected from each ward in certain cities and towns.

32. SEC. 1. That there shall be elected from cities of the third class and incorporated towns of this state, having a population of not less than eight thousand, which are not now but may hereafter be divided into wards, a chosen freeholder to represent each ward of such city or incorporated town in the board of chosen freeholders of the county in which such city or incorporated town is situated, whose term of office shall be the same as the other freeholders elected in said county ; *provided, however*, that if a chosen freeholder now holds a seat in the board of chosen freeholders of the county from any such city or incorporated town to which this act applies, or from the township of which such city or incorporated town formed a part and from which it has been set off, and is a resident of such city or incorporated town, such freeholder shall remain in office until the expiration of the term for which he was elected, as the chosen freeholder from the ward in which he resides ; and his successor shall be elected for a term ending at the same time that the term of office of the other chosen freeholders of such city or town shall terminate.

Repealer.

33. 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.

II. Assessments for local improvements.**An act relating to notices of filing reports of assessments.**

Approved April 13, 1878.

P. L. 1878, p. 125.

34. SEC. 1. That in all cases where, under the provisions of any law of this state, notices of filing reports of assessments for benefits and of hearing objections thereto are required to be given, the said notices shall clearly state the character of the work and improvement for which such assessments have been made, and a description of the streets or avenues or particular sections thereof, which are included in said assessment; but the names of the owners of the lands so assessed and the map and street numbers shall not be required to be published, and two or more assessments may be included in one notice; *provided, however,* that in cases of non-resident property-owners whose property is assessed, a copy of said notice shall be mailed to them, postage prepaid, at least five days prior to the confirmation of any assessment thereon, if such non-resident property-owner shall have filed in the office of the city clerk, at any time prior to such assessment, his name and post-office address. (a)

Notices of filing reports to state the character of improvement for which assessments have been made.

Notice, how given.

35. SEC. 2. That all notices of assessment heretofore published in conformity with the provisions of the previous section of this act since the first day of January, eighteen hundred and seventy-six, are hereby declared to be sufficient, and that this act shall take effect immediately.

Past notices validated.

An act to provide for the assessment and payment of the costs and expenses incurred in constructing sewers and making other improvements in townships and villages.

Approved March 12, 1878.

P. L. 1878, p. 70.

36. SEC. 1. [Amended and supplied by Sec. 56, *post.*]

37. SEC. 2. That in all cases in which such re-assessment shall be deemed necessary, and in all cases in which an assessment for the costs, damages and expenses which may be hereafter incurred by any such board of commissioners, for the construction of any sewer, or laying out, opening, widening or otherwise improving any street or avenues, or for making any other improvement (other than for the laying of sidewalks) shall be necessary, such board of commissioners shall cause public notice to be given in one or more of the newspapers of the county wherein such sewer, street or public improvement is located, in such manner as the said circuit court may direct, of application to be made on a certain day and place therein named, to said circuit court, for the appointment of three discreet and competent freeholders, not property-owners, taxpayers, nor residents within the limits of the authority of such board of commissioners, as commissioners, to make an assessment of such costs, damages and expenses of such improvement; and such circuit court, when applied to as aforesaid, on due proof that such notice has been given, is hereby authorized and required to appoint three commissioners as aforesaid by rule entered in the minutes of said court; and in case of death, resignation, disability or refusal to serve of any such commissioner, the vacancy shall be filled as soon as may be by said court, upon such notice as the said court shall direct; the commissioners so to be appointed shall, before entering upon the duties of their office, take, subscribe and file, in the office of the clerk of the said county, an oath faithfully to discharge the duties devolving upon them as such commissioners, and that they are not property-owners, taxpayers or residents within the limits of the authority of such board of commissioners. (b)

Notice of application to circuit court for appointment of commissioners to re-assess benefits for local improvements in townships and villages.

Appointment of commissioners.

Commissioners to take and subscribe an oath.

(a) The notice of an assessment for benefits is sufficient if it describes lands by given distances along specified streets and avenues, and substantially shows that such lands are assessed for benefits. *Central R. R. Co. v. Bayonne*, 23 *Vr.* 503.

(b) This act applies only to those municipalities in which a

"board of commissioners" has power to make local improvements and impose taxes. *Hoetzel v. East Orange*, 21 *Vr.* 354. See *Cherry v. Keyport*, 23 *Vr.* 544, and *Levy v. West Hoboken*, 25 *Vr.* 508, 513.

Commissioners to ascertain total costs, damages and expenses, &c.

38. SEC. 3. That the commissioners, upon their appointment and qualification as aforesaid, shall forthwith proceed to ascertain and determine the total costs, damages and expenses incurred for the construction of such sewer, or for the laying out, opening, widening or improving such street or avenue, or making such other improvement, including the value of the lands and improvements (if any) taken for the same by the said board of commissioners, including also all interest or discounts paid upon any certificates of indebtedness, bonds or notes issued or made for money borrowed in payment of such costs, damages and expenses, or in payment or renewal of any notes or other certificates or bonds previously issued therefor, and after ascertaining the total amount of such costs, damages and expenses in manner aforesaid, the said commissioners shall calculate interest thereon to a date three months thereafter, and shall make a minute of the date to which they shall have calculated such interest in the certificate of assessment directed to be made by this act.

Commissioners to make assessment.

39. SEC. 4. That upon ascertaining the total cost, expense and damage incurred by such improvement as prescribed by the third section of this act, the commissioners shall proceed to make a just and equitable assessment thereof upon all of the lands within the limits of the authority of said board of commissioners, specially benefited by such improvement, in proportion to the benefits actually acquired by said lands; *provided*, that in no case shall the assessment upon any lands exceed the special benefits arising from such improvement to the lands so assessed, and in case the said commissioners shall determine that the lands specially benefited by said improvement have not been so benefited to the full extent of the costs, damages and expenses thereof, the surplus of such costs, damages and expenses remaining after assessing the lands specially benefited to the extent of such special benefit, shall be a debt upon and be paid by the said board of commissioners out of the moneys to be raised by general taxation for that purpose as hereinafter provided.

Proviso.

Commissioners to give notice of time and place of making assessments, and hear parties.

40. SEC. 5. That the said commissioners shall, after their qualification as aforesaid, and before entering upon the duties prescribed by this act, give ten days' previous notice, by publication in two of the newspapers published in the county wherein said improvement is situate, and by printed handbills posted in five of the most public places within the limits of the authority of said board of commissioners, that they will meet at a convenient time and place named in said notice for the purpose of discharging the duties devolving upon them as such commissioners, and at the time and place so appointed the said commissioners shall meet and proceed to examine the matters referred to them under this act, and shall have power to adjourn from time to time, and shall give full opportunity to all parties interested, under such reasonable restrictions as the commissioners may impose, to state their views in regard to the subject-matter before said commissioners, and to present their objections to the assessments to be made by the said commissioners, and to produce evidence before the said commissioners in support of their objections; and any one of the said commissioners may administer oaths and take the depositions of witnesses, who shall be subject to the same pains and penalties for false swearing as if said oaths had been administered in an ordinary legal proceeding before a competent court.

Map of lots assessed to be made, &c.

41. SEC. 6. That whenever the commissioners shall have completed said assessment, they shall cause a map to be made showing the location and boundaries of each lot so assessed, and shall designate on each lot of land upon said map the names of the owners of said lots so far as they may be known to the said commissioners, and shall also cause the lots on said map to be numbered, and they shall make a certificate showing the whole amount of said assessment, with the amount assessed against each lot by the number as designated on said map, and the names of the owners set opposite thereto, so far as the same may be known to the said commissioners, which said map and certificate shall be open to the inspection of all parties interested, at such place as the said commissioners shall specify

in the notice next hereinafter mentioned, and the said commissioners shall thereupon give ten days' public notice in the manner provided by the fifth section of this act, that they have completed the map and certificate required by this act, and that the same may be examined in some convenient place in said notice named, and that they will meet at a certain time and place designated in said notice, to hear and consider all objections to said assessment, and to revise, correct and finally confirm the same; at which time and place the said commissioners shall meet and give all parties appearing before them an opportunity of being fully and fairly heard concerning the said assessment or the subject-matter thereof.

Notice of meeting to revise assessment to be given.

42. SEC. 7. That the said commissioners shall make a report of their proceedings and assessments to said circuit court within sixty days after the date of their appointment, or within such further time as the said court may by order grant; and upon the coming in of said report, signed by the said commissioners, or any two of them, said court shall cause notice to be given in the same manner as prescribed in the fifth section of this act, 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 shall either confirm the said report or refer the same to the same or 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 by them made in the premises, to the said court, within such time as the said court shall by order direct, and the same, on being so returned, shall be confirmed or again referred by said court in manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned in the premises which the said court shall confirm; and such report, when so confirmed, shall be final and conclusive, as well upon the said board of commissioners as upon the owner of any land and real estate affected thereby; which said map and report, when finally confirmed by said court, shall be filed in the office of the clerk of the county wherein said improvement is situate, and shall, at all reasonable and proper times, be subject to the examination and inspection of all parties interested in the same; and from and after the filing of said map and report in the office of said clerk, said assessments shall be and remain a lien upon each lot of property so assessed for the amount thereof, with interest thereon and all costs and fees thereon, until the same shall be paid and satisfied, notwithstanding any devise, descent or alienation thereof, or any judgment, mortgage or incumbrance thereon, and notwithstanding any mistake in the name or names of the, or omission to name the, owner or owners thereof, and any assessment in which such mistake or omission occurs shall, nevertheless, be a valid and effectual lien upon the lands assessed.

Report by commissioners to circuit court.

Proceedings if report is not confirmed.

Map and report to be filed.

Assessments to be a lien.

43. SEC. 8. That immediately after the confirmation of said assessment, the treasurer or financial officer of such board of commissioners shall give written notice to each owner of lands assessed of the amount assessed against the lands of such owner, either by service of such notice upon such owner personally, or by mailing the same to such owner, directed to his post-office address if known, and if unknown, by publishing the notice of such assessment for two weeks in one of the newspapers published in the county where said improvement is located.

Notice of assessment to be given to each owner of lands assessed.

44. SEC. 9. That the owners of lands so assessed may pay said assessments in such equal yearly payments, not exceeding ten, as the said board of commissioners may determine, with legal interest thereon from the date to which said commissioners shall have calculated interest, as directed in and by the third section of this act; the first of which said annual payments shall be made within one year after the confirmation by said court of the report of said commissioners; and upon failure to make any of the annual payments or any installment of interest upon the assessment when due, the whole of such assessment shall become and be immediately due and payable; *provided*, that any party assessed shall have the privilege of paying the whole of any assessment with accrued interest at one time.

Assessment may be paid in equal yearly payments not exceeding ten, &c.

Proviso.

Proceedings when owners shall fail to pay assessment or installment thereof.

45. SEC. 10. That in case any owner of lands so assessed shall fail to pay any such assessment, or any installment thereof, or the interest thereon, at the time and in the manner prescribed by this act, the said board of commissioners may sue for and recover from such owner the whole of such assessment remaining unpaid, with interest and costs, by an action of debt in any court of competent jurisdiction, in the name of said board of commissioners against the owner of the land so assessed, for so much money laid out and expended for the use of such owner, and may declare generally and give the special matter in evidence; and if any of the said owners reside out of this state a writ of attachment may be resorted to as in other cases of non-resident debtors, and the said report of the said commissioners and the order of the court confirming the same shall be conclusive evidence against the said defendants, and the said assessment shall be and continue a lien on the lands against which the same is assessed, or it shall be lawful for the said board of commissioners, and they are hereby authorized to sell at public sale the said lands so assessed for the shortest term of years for which any person will agree to take the same, not exceeding, fifty years, and to pay the said assessment with interest and the costs and expenses of sale, having first advertised said sale for the space of two months, at least once in each week, in two of the newspapers published in the said county, giving notice of the time and place of sale, together with a brief description of the said land, and specifying the amount of such assessment remaining unpaid, and the name of the owner of the land against which such assessment was made; and upon such sale the said board of commissioners shall execute, under its common seal, a declaration of such sale, to be signed by its president or other head officer, and secretary, and deliver the same to the purchaser, and the said purchaser, his executors, administrators and assigns shall, by virtue thereof, lawfully hold and enjoy the said lands and real estate for his and their own proper use, against the owner or owners thereof, and all persons claiming under them, until said term shall be completed and ended, and shall be at liberty to remove all the buildings and materials which he or they shall erect or place thereon; and the recitals in such declaration of sale shall be deemed and taken as prima facie evidence of the truth of the matters therein set forth.

Lands may be sold.

Redemption of lands after sale.

46. SEC. 11. That the lands, tenements or hereditaments so sold may be redeemed by the owner, mortgagee, occupant, or person having a legal or equitable interest therein, at any time within two years from the date of said declaration of sale, by paying to the purchaser thereof, his executors, administrators or assigns, the amount of said purchase-money, together with any other sum paid for taxes or assessments which the said purchaser may have paid, chargeable on such lands, tenements or real estate, with interest on such sums at the rate of ten per centum per annum in addition thereto; and if the person so redeeming be a judgment creditor or mortgagee of the premises, shall have a lien on the lot redeemed by him by virtue of this act for the amount paid by him to the purchaser to effect such redemption, with the legal interest which may thereafter accrue thereon, in like manner as if the same had been included in his mortgage or judgment, and may enforce the payment of the same in the same manner; *provided*, that no mortgagee, whose mortgage shall have been duly recorded before such sale, shall be divested of his right to redeem such property after the expiration of said period of two years hereinbefore provided for the redemption of said property, until six months after receiving notice in writing of such sale, from the purchaser or any person claiming under him; *provided also*, that the said sale may be adjourned or postponed from time to time, or suspended, as the board of commissioners may direct; *and provided further*, that if at any such sale of lands for such assessment any part thereof shall remain unsold for the want of purchasers, it shall be lawful for the said board of commissioners to purchase the said lands for the benefit of such board of commissioners for the term of fifty years, subject to the same redemption as hereinbefore provided for, and to assign the declaration of sale, or to lease, or otherwise dispose of said lands, subject to said right of redemption; *and provided further*, that such declaration of

sale shall be void and of no effect against a subsequent judgment creditor or bona fide purchaser or mortgagee, for a valuable consideration, not having notice thereof, unless the same shall within fifteen days after the signing, sealing and delivering of the same, be recorded in the office of the clerk of the county in which the said lands so sold are situate.

47. SEC. 12. That whenever any such assessment for local improvements has been or may hereafter be set aside or vacated by any court of this state, as mentioned in the first section of this act, any owner or owners of lands so assessed who shall have paid, or who shall hereafter pay, the sums of money so assessed on his or their said lands for such improvements, shall be stayed and delayed in the collection of such moneys from such board of commissioners until such time as a re-assessment for benefits for such improvement shall have been made as hereinafter set forth; *provided, however*, that in all cases where such void assessments have been made, or assessments so set aside and vacated, such re-assessment shall be made within two years from the passage of this act, and in cases where such assessments shall hereafter be set aside such re-assessment shall be made and completed within twelve months from the time of setting aside said assessments; *and provided further*, that interest upon the sums of money so paid as aforesaid by any owner of lands for such assessments shall be collected, on final settlement, from said board of commissioners, at the rate of seven per centum per annum, from the date of the payment of such assessment aforesaid to the time of final adjustment; *and provided further*, that in cases where such re-assessments are made and completed within the time limited in this act for the refunding of said moneys, the said moneys so as aforesaid paid, with interest as aforesaid, shall become at once due and payable, and shall be applied in settlement of said re-assessment, and the balance, if any, refunded to the person or persons legally entitled thereto.

Proceedings where owner has paid an illegal assessment before the same has been set aside.

48. SEC. 13. [Amended and supplied by Sec. 54, *post.*]

49. SEC. 14. That it shall be the duty of such board of commissioners to raise by taxation, in the manner provided for the raising of other taxes for the purpose of such board of commissioners, the moneys necessary to pay the costs, damages and expenses of any such improvement hereinbefore mentioned in excess of the amounts assessed upon the lands specially benefited, as provided in the fourth section of this act; *provided*, that at least one-tenth of such excess shall be raised by general taxation as aforesaid, each year, in addition to the amounts which the said board of commissioners is or may be authorized by law, or by vote of the persons entitled to vote within the limits of the authority of said board of commissioners, to raise by taxation for general purposes.

Cost of improvement over benefits assessed to be raised by general tax.

50. SEC. 15. That the commissioners appointed under the provisions of this act shall have power to employ an engineer, clerk and counsel, if the same shall be deemed necessary; and the said circuit court, on the confirmation of such assessment, shall tax and allow such reasonable compensation, costs and fees to said commissioners, clerks, engineer, counsel or other persons performing any of the duties prescribed by this act, as the said court shall deem just and fair, to be paid by such board of commissioners; and the judge of the circuit court who shall perform the services aforesaid shall receive the following compensation, to wit: for the appointment of commissioners, the sum of five dollars; for the hearing of any objections to any report, the sum of five dollars; for the confirmation of any such report, the sum of five dollars, and for every day that he shall be engaged in hearing objections to said report, the sum of five dollars, to be paid by such board of commissioners.

Commissioners may employ engineer, clerk and counsel.

Fees.

51. SEC. 16. That said court may make such rules not inconsistent with this act for the regulation of the practice and procedure under the same as shall be deemed expedient.

Court may make rules of procedure.

52. SEC. 17. That the provisions of this act shall not apply to any case where the whole of the assessments for any such local improvement shall have been paid in full.

To what cases act shall not apply.

53. SEC. 18. [Amended and supplied by Sec. 57, *post.*]

Supplement.

Approved March 14, 1879.

P. L. 1879, p. 287.

54. SEC. 1. That the thirteenth section of the act to which this is a supplement, which reads as follows [see Sec. 48, *ante*], be and the same is hereby amended so that the said section shall read :

Board of commissioners authorized to issue bonds.

[That for the purpose of paying the costs, damages and expenses of constructing any sewer, or laying out, opening, widening or otherwise improving any street or avenue, the assessment for which is provided for in this act, and all other expenses incident thereto, and the interest upon such expenses, the said board of commissioners is hereby authorized to issue bonds in the name of such board of commissioners, and pledging for the redemption thereof the faith and credit of said board of commissioners, bearing interest at such rate as the said board of commissioners can dispose of said bonds at, not exceeding legal interest, which bonds shall be made payable at such time or times as the said board of commissioners may, at the time of issuing the same, determine, not over fifteen years from the date of issuing the same, but so issued that an equal portion of the same shall become and be due and payable in each year after two years from the date of said bonds ; said bonds shall be issued in such sums as the said board of commissioners may determine, not exceeding in the aggregate the amount of the cost, damages and expenses incurred for such improvement ascertained by the commissioners appointed by the court as aforesaid, together with all the expenses incident to said assessment, and interest upon the amounts to be refunded for payments made under any former assessment as provided for in the twelfth section of this act, and the costs incurred, if any, setting aside the original assessment, and may be disposed of by the said board of commissioners from time to time as may be necessary, at the highest rate for which they can dispose of the same ; said bonds shall be issued under the seal of the said board of commissioners, and signed by the president, or other head officer, and treasurer of such board of commissioners, and shall specify the purpose for which the same are issued, and shall be a lien upon the real estate within the limits of the authority of said board of commissioners as well as the property of the said board of commissioners.]

When and how payable.

Amount to be issued.

How executed.

Supplement.

Approved February 19, 1880.

P. L. 1880, p. 43.

What fees to be allowed to commissioners in townships.

55. SEC. 1. That in all cases where the township committee of any township in this state have applied for and obtained the appointment of commissioners to make a new assessment of the costs and expenses incurred in making an improvement in such township, under the provisions of the act to which this act is a supplement, it shall be lawful for the township committee of any such township to pay to such commissioners, and to any engineer and counsel employed by such commissioners, and to all other persons performing any of the services prescribed by the said act, such compensation, fees and costs as have been or shall be taxed and allowed by the circuit judge of the county in which such township is situated, notwithstanding the act under which such commissioners were appointed may not be applicable to such township. [See Sec. 59, *post*.]

Supplement.

Approved March 12, 1880.

P. L. 1880, p. 308.

56. SEC. 1. That the first section of the act entitled "An act to provide for the assessment and payment of the costs and expenses incurred in constructing sewers and making other improvements in townships and villages," approved March twelfth, one thousand eight hundred and seventy-eight, be and the same is hereby amended so as to read as follows :

When circuit court may vacate assessment for street or sewer improvement, and appoint commissioners to make new assessment.

[That whenever any assessment which has been made by any board of commissioners within any township or village in this state, by virtue of any local or special law, for the costs, damages and expenses of constructing any drain or sewer, or laying out, opening, widening or otherwise improving any street or avenue, or of making any other improvement (other

than for the laying of sidewalks), has been or shall be hereafter set aside by any court of competent jurisdiction; or whenever any such assessment has, in the opinion of such commissioners, been made in an illegal manner, or upon erroneous principles, or whenever any such work or improvement has been directed or authorized by any legislative act, and no adequate provision has been made for the costs, damages and expenses incurred or to be incurred for such improvement, or for paying any indebtedness authorized to be incurred for such costs, damages or expenses, it shall be lawful for the said board of commissioners, or other persons having charge of such work or improvement, to apply to the circuit court of the county wherein such improvement is situate, or intended to be, to have such assessment vacated (if any there be not already set aside as aforesaid), and for the appointment of commissioners to make an assessment or re-assessment of such costs, damages and expenses, and the said court shall thereupon vacate any such assessment and appoint commissioners as hereinafter provided; *provided*, that nothing herein contained shall apply to or affect any assessment for improvements upon any street or avenue lying between or running through two or more townships or villages.]

Proviso.

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

[That this act shall refer to all boards of commissioners or other persons having charge of any public improvement of the character mentioned in this act, by whatever name or style such commissioners may be designated or known in and by the act authorizing them to make such improvements, and that all special acts under which any local improvements of the character mentioned in this act have been or shall be made, so far as such special acts are consistent with the provisions of this act, and all other acts inconsistent with this act be and the same are hereby repealed.] (a)

Act to refer to all boards of commissioners having charge of public improvements.

Repealer.

Supplement.

Approved March 18, 1881.

P. L. 1881, p. 137.

58. SEC. 1. That whenever any bonds heretofore legally issued or hereafter to be legally issued by any board of commissioners within any village or township by virtue of the provisions of the act to which this is a further supplement, or by virtue of the supplement thereto, approved March fourteenth, one thousand eight hundred and seventy-nine, shall hereafter become due, it shall be lawful for the said board of commissioners, for the time being, to renew three-fourths of such indebtedness, or any less part thereof, by the issuing of bonds for that purpose in the name of such board of commissioners, pledging for the redemption thereof the faith and credit of such board of commissioners, which bonds shall bear interest at a rate not exceeding six per centum per annum, and be made payable at such periods of time as the said board of commissioners may determine, not exceeding thirty years from the date of issuing the same, but so issued that an equal portion of the same shall become due and payable in each year after ten years from the date of said bonds, which bonds may be sold at public or private sale for the best price that can be obtained for the same, but in no case at less than their par value; said bonds shall be issued under the seal of said board of commissioners, and be signed by the president, or other head officer, and the treasurer of said board of commissioners, and shall be a lien upon the real estate within the limits of the authority of said board of commissioners, and the bonds provided for by this act, as well as the bonds provided by the act to which this is a supplement, and by the aforesaid supplement thereto, and the interest thereon shall be paid by assessment and taxation, as provided for by the ninth and

Board of commissioners authorized to issue bonds for the redemption of those becoming due.

Bonds issued to be a lien on real estate.

To be paid by taxation.

(a) The first and eighteenth sections of the act of 1878 (being the two sections of the above supplement) are so broad and comprehensive in their terms that the act is applicable to the township of West Hoboken, notwithstanding that township, by its prior incorporation act, has power to make improvements and to authorize a re-assessment where first assessment is set aside. *Sites v. West Hoboken*, 16 Fr. 428. An assessment for opening and grading an avenue was made in 1874, under a special township act; in 1874, a mortgage was given upon cer-

tain land thus assessed; in 1879, the township being advised that the first assessment was invalid, caused a new assessment to be made under the act to which the above is a supplement; in 1880, foreclosure proceedings were begun. *Held*, that the legislature had the power to enact the law under which the new assessment was made, and that the lien of the assessment was prior to the lien of the mortgage. *Commissioners of Sinking Fund v. Landon*, 13 Stew. 27.

Proviso.

fourteenth sections of said act to which this is a supplement; *provided*, that in cases where a part of the bonds falling due shall be renewed, as authorized by this act, the said board of commissioners shall also extend the time of payment of the same proportion of the installment of the direct assessments for benefits, payable in the same year, so that the said assessments shall be payable in the same proportions and at the same periods as the bonds issued under this act, and the said board of commissioners shall raise by general taxation, as provided in said act, each year, only such sum as will be necessary to pay the bonds and interest or debt contracted for such improvement, falling due in each year in excess of the amounts to be paid, by direct assessment upon the lands specially benefited.

Supplement.

Approved March 1, 1882.

P. L. 1882, p. 37.

Township committees to pay compensation, fees and costs to commissioners, engineers, &c.

59. SEC. 1. That in all cases where the township committee of any township in this state have applied for and obtained the appointment of commissioners to make a new assessment of the costs and expenses incurred in making an improvement in such township, under the provisions of the act to which this act is a supplement, the township committee in any such township shall pay to such commissioners, and to any engineer and counsel employed by such commissioners, and to such judge appointing said commissioners, under said act to make said assessment, such compensation, fees and costs as have been or shall be taxed and allowed by the circuit judge of the county in which such township is situated, notwithstanding the act under which such commissioners were appointed may not be applicable to such township.

Supplement.

Approved March 23, 1888.

P. L. 1888, p. 209.

County clerk to record assessment.

60. SEC. 1. That the clerk of the county wherein any improvement is situate, as provided for in the act to which this is a supplement, upon receipt of any assessment made by virtue of said act, shall record the same at length in a separate book provided for the purpose of recording assessments, and shall properly index the same, which book 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 assessment, to be paid by said board of commissioners; and it shall be lawful for said clerk, in making searches, on request, for unpaid assessments, to charge ten cents per year for each name searched against.

Fee for recording, &c.

Assessment heretofore made may be recorded.

61. SEC. 2. That in case said board of commissioners shall desire to have any assessments heretofore made and filed in said clerk's office, recorded, it shall be the duty of the clerk to record the same in manner aforesaid in said book of assessments.

When assessment is paid, certificate of satisfaction to be given and entered on the record.

62. SEC. 3. That upon payment in full of any assessment made by virtue of the act to which this is a supplement, the board of commissioners who shall receive the same shall give to the person paying such assessment a certificate of satisfaction thereof, under the seal of said board of commissioners and signed by their treasurer, which certificate shall be sufficient evidence of the payment of such assessment, and that upon presentation thereof the clerk of the county wherein said improvement is situate shall satisfy such assessment by making a memorandum of such payment and the date of the same on the margin of the record of said assessment in his office, opposite the name of the person and lot so assessed, and file such certificate in his office, by virtue of which satisfaction so made as aforesaid the land so assessed shall thereafter be freed, cleared and discharged of and from the lien of said assessment.

Fee for certificate and satisfaction of record.

63. SEC. 4. That the person paying any assessment as aforesaid for which a certificate shall be given, shall pay to such board of commissioners the sum of ten cents for each and every certificate so made as aforesaid, and shall also pay to the clerk of the county who shall satisfy said assessment of record, the sum of ten cents.

Repealer.

64. SEC. 5. 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.

Supplement.

Approved April 6, 1891.

P. L. 1891, p. 330.

65. SEC. 1. That where any sewer which has heretofore or may hereafter be constructed under the provisions of this act, forming a trunk line into which lateral sewers may discharge, or 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 benefits which may have been or may be conferred upon the property by the construction of said trunk line of sewers, for the commissioners appointed to assess such benefits to assess the same as follows: such assessments shall be made upon all the property benefited and to be benefited within the entire drainage district of such trunk sewer; where an immediate or direct benefit may be or is secured, the assessment, when finally confirmed, shall be collectible at once; and where the benefit is prospective, and depends upon the construction of lateral and connecting sewers not yet built, then the assessment made upon such property, in every such case shall constitute a first lien thereon, at and from the time when the lateral sewer is constructed connecting the property so 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 such assessments 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, may draw interest, and at the same rate.

Assessments for trunk sewers may be made on all property within the drainage district of such trunk sewer.

Provisions where it is direct and where it is prospective.

66. 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 in relation to the payment of assessments for local improvements.

Approved April 5, 1878.

P. L. 1878, p. 316.

67. SEC. 1. That all persons or corporations interested in lands upon which have been or may be imposed assessments for local improvements, may make payment of such assessments in such bonds of the corporate authorities under whose direction such improvements have been or may be ordered to be made.

Assessments may be paid in bonds of authorities directing improvements.

68. SEC. 2. That such bonds shall be received in lieu of money payments for such assessments at the par or face value, with the interest accrued thereon; *provided*, said corporate authorities shall not be required to adjust any difference between said assessments and the bonds tendered in payment in cash.

Such bonds to be received at par, with interest.

69. SEC. 3. That any bonds so used in payment of assessments shall be immediately canceled and discharged by the corporate authorities to whom they shall be delivered in payment as aforesaid, in the same manner as if they had been paid in money; *provided, however*, that if there are commissioners of a sinking fund in any municipal corporation to which bonds may be paid in discharge of assessments, as provided for by this act, said bonds shall be delivered to said commissioners, who may, at their option, either cancel and discharge said bonds, or retain and hold them against such corporation in the sinking fund thereof, for the benefit of such sinking fund.

Bonds so paid in to be canceled.

Proviso.

70. SEC. 4. [Amended and supplied by Sec. 71, *post*.]

Supplement.

Passed March 11, 1885.

P. L. 1885, p. 89.

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

[That in municipal corporations in which there are commissioners of the sinking fund, it shall be lawful for the said commissioners, by resolution, to limit the time within which and to decide what class of bonds shall be received for assessments, and to determine whether bonds shall be received for assessments hereafter laid or not.]

Commissioners of sinking fund may decide what bonds shall be received for assessments.

An act concerning past-due assessments in certain towns and townships of this state.

P. L. 1881, p. '8.
Preamble.

Approved February 18, 1881.

WHEREAS, In certain towns and townships of this state many of the benefit assessments for local improvements heretofore made by commissioners, the township committees, or the commissioner of public roads of said town or township, as the case may be, 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 to the peculiar benefit derived by reason 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 towns and townships, 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,

Assessments may be rebated, or arbitrated, in certain cases in towns and townships.

72. SEC. 1. That the common council, board of township committee, or governing body of any town or township, 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, board of township committee 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 town or township 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. (a)

Appointment of arbitrators by supreme court.

73. SEC. 2. That in case such common council, board of township committee 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.

Arbitrators to make award or report in writing.

(a) This beneficial and remedial act renders it unnecessary for the owner of land assessed under unconstitutional laws for

benefits for municipal improvements to have recourse to equity for relief. *Baldwin v. Elizabeth*, 15 Stew. 14.

An act respecting assessments for local improvements in towns and townships.

Approved March 23, 1883. P. L. 1883, p. 239.

74. SEC. 1. That hereafter in assessing the costs and expenses of street, sewer and drainage improvements in any town or township of this state, the commissioners or board of assessment, by whatever name they may be called, shall assess the said costs and expenses upon the land and real estate benefited by such improvement, and in proportion to the benefits therefrom received, and no lot or parcel shall be assessed more than it is benefited; and if the total cost and expenses of an improvement exceed the aggregate amount of the assessable benefits, such excess shall be borne and paid by the town or township at large. (a)

Costs of improvements in towns and townships to be assessed in proportion to benefits.

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 this act shall take effect immediately.

Repealer.

A general act for the assessment of the costs and expenses of street improvements that lie between or run through two or more municipalities.

Approved April 3, 1888. P. L. 1888, p. 381.

76. SEC. 1. That hereafter in assessing the costs and expenses of street improvements that lie between or run through two or more municipalities in this state, the commissioners or persons appointed or authorized to make such assessments, by whatever name they may be called, after first taking and subscribing an oath faithfully to perform their duties in the matter, shall assess upon all the tracts or lots of land and real estate benefited by any such improvement, such proportion of the cost and expenses thereof 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 no tract or lot shall be assessed more than it is benefited, and the excess, if any, of such cost and expense shall be assessed upon the municipalities between or through which said improvement shall lie or run, in the proportion that the total of the assessments, on owners of lands, of benefits in each of said municipalities bears to the sum of the total assessments of benefits on owners of land in all of such municipalities, and shall be paid out of moneys raised by general taxation for that purpose; *provided, however,* that if any portion of the costs or expenses of any such improvement has already been raised and paid by such municipalities by general taxation, under any provision of law, the amount or amounts so raised and paid shall not be included in any assessment provided for in this act.

Manner of assessing costs of street improvements that lie between or run through two or more municipalities.

77. SEC. 2. That the term municipalities shall be taken and construed, under this act, to include any city or cities, town or towns, township or townships, and all other municipal corporations whatsoever.

Term "municipalities" construed.

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

Repealer.

An act providing for the assessing of lands benefited by the construction of lateral or other sewers connected with a main or outlet sewer.

Approved April 18, 1889. P. L. 1889, p. 308.

79. SEC. 1. That where, within the limits of the drainage area of any main or outlet sewer established in any city, town or township in this state, there has been or hereafter may be constructed a lateral or other sewer connecting with the main or outlet sewer therein, of such size and capacity that lands in such city, town or township, outside of such drainage area, having no sewerage and not included in any other drainage area,

Assessments for lateral sewers may, in certain cases, be extended to property beyond the drainage area of such lateral sewer.

(a) This act affords a legal method of assessments. *Keyport v. Cherry*, 22 Vr. 419, 23 Vr. 548. The phrase "street, sewer and drainage improvements" does not include the laying out and

opening of streets, but only work upon streets. *Leuby v. West Hoboken*, 25 Vr. 511. See *Schlapfer v. Town of Union*, 24 Vr. 67.

can be properly drained and sewered by and through the same, it shall be lawful for the commissioners appointed to make an assessment of the cost of any such lateral or connecting sewer, to extend the limit of assessment beyond the lines of such drainage area, so that the area of assessment therefor shall include all the lands specially benefited thereby, and to assess such lands their fair and equitable proportion of the cost of such lateral or connecting sewer, and such lands so assessed shall not thereafter be included within the limits of the drainage area of any other main sewer.

An act concerning the levying of assessments for sewers.

P. L. 1892, p. 58.

Approved March 8, 1892.

Assessments for lateral sewers may also include part of cost of constructing the sewer with which the lateral is connected.

80. SEC. 1. That it shall be lawful for any board, commission, officer or officers, heretofore appointed or elected, or that may hereafter be appointed or elected in any city or other municipality in this state, for the purpose of making or levying any assessment for benefits conferred by the construction of any lateral sewer, or sewer connecting with any sewer heretofore constructed, or that may hereafter be constructed, in any such city or other municipality, prior to the construction of such lateral or connecting sewer, to assess on the lots or parcels of land specially benefited by such lateral or connecting sewer not only the cost or part of the cost thereof, but so much of the cost of the sewer with which the same may have been or may be connected, as in the judgment of such board, commission, officer or officers, is proper; *provided*, that no lot or parcel of land shall be assessed for any sum or amount in excess of the special benefit conferred thereon by any such lateral or connecting sewer and the sewer or sewers with which the same may have been or may be connected; and all lots or parcels of land so specially benefited shall be assessed in proportion to the benefit received by each. (a)

Repealer.

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

An act concerning the making and collecting of assessments for benefits conferred, by the construction of sewers and drains.

P. L. 1895, p. 95.

Approved February 19, 1895.

Assessments for sewers shall extend throughout the whole drainage area.

82. SEC. 1. That where in any city, or other municipality, sewers or drains have been or may be constructed, forming part of a general system of sewerage or drainage for such city, or other municipality, or part or parts thereof, it shall and may be lawful in assessing the benefits conferred, by the construction of any main, trunk, or intercepting sewer or drain, forming a part of such system, to assess such benefits not only upon the lands and real estate fronting or abutting on the line thereof, but also upon all the lands and real estate situate in and throughout the entire sewerage or drainage area or district in such city, or other municipality, and through which sewers or drains the whole or a part of the sewerage or drainage of such area or district, directly or indirectly, finds or will find an outlet.

When assessments for direct and for prospective benefits shall respectively be collectible.

83. SEC. 2. That the assessment upon all lands and real estate which at the time of making such assessment front or abut on, or are situate in the vicinity of the line of such main, trunk, or intercepting sewer or drain, or any other sewer or drain already constructed, and connected directly or indirectly therewith, whereby a direct tapping or drainage benefit is or may be secured, shall be collectible at once, and that where such benefit is prospective only, depending upon the construction of any other and connecting sewer or drain not yet built, such assessment shall be collectible and bear interest only from the time when the assessment to be made for benefits conferred upon such lands and real estate, by the construction of such other sewer or drain along the line of which such lands and real estate front or abut, or are in the vicinity of, shall be confirmed and collectible.

(a) This act is constitutional. *De Witt v. City of Elizabeth*, 27 Vr. 119.

84. SEC. 3. That in ascertaining and estimating the proportion of the cost of such main, trunk, or intercepting sewer or drain, which may be assessed upon lands and real estate not fronting or abutting upon the line, or in the vicinity thereof, and having no immediate tapping or drainage benefit, the benefit conferred upon the lands and real estate so fronting or abutting thereon, or in the vicinity thereof, and having an immediate tapping or drainage benefit shall be first ascertained, and after deducting the amount thereof from the entire cost, the balance, or so much thereof as may be applied, shall be assessed upon such other lands and real estate not having an immediate tapping or drainage benefit, but which shall be situate in such sewerage or drainage area or district to the extent that the same is benefited by the construction of said main, trunk, or intercepting sewer or drain, and to be benefited thereby when the sewer or drain in front of, or in the vicinity of such property, shall be constructed and connected therewith, and in which the said property may secure a direct tapping or drainage benefit.

Manner of making such assessments.

85. SEC. 4. That in all cases of sewer or drain assessments made for benefits conferred by the construction of any lateral or connecting sewer or drain, forming a part of the general system aforesaid, and upon the lands and real estate fronting or abutting on or in the vicinity of the line of such lateral or connecting sewer or drain, no assessment was made for benefits conferred or likely to be conferred by the construction of any main, trunk, or intercepting sewer or drain, and through which such lateral or connecting sewer or drain has or will have an outlet for its sewerage or drainage, it shall and may be lawful to include in such assessment not only the cost or part of the cost of such lateral or connecting sewer or drain, but so much of the cost of the main, trunk or intercepting sewer or sewers, drain or drains, with which the same is connected and through which it finds an outlet, as the said lands and real estate shall be peculiarly benefited by the construction of said main, trunk or intercepting sewers or drains, or any part thereof.

Principle of making assessments in vicinity of lateral sewer.

86. SEC. 5. That in all cases the benefit assessment so made shall be limited to and shall not exceed the peculiar and special benefit which each 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.

Assessment limited to the special and peculiar benefits.

87. SEC. 6. That if in any case different portions or sections of any trunk line sewer or drain are 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 for different sections of any sewer.

88. SEC. 7. That it shall be the duty of the corporation attorney or counsel of such city or other municipality, to assist the board, commission, or other body charged with the making such assessments, by advice, preparation of reports, and otherwise in the discharge of their duties, when requested, and the city surveyor or engineering department of the city shall make all necessary surveys and maps required.

Duty of corporation attorney or counsel as to such assessments.

An act concerning the qualification of commissioners appointed to assess benefits conferred by the construction of sewers and drains in certain cases.

Approved March 14, 1895.

P. L. 1895, p. 321.

89. SEC. 1. That in all cases where the benefits conferred by the construction of any sewer or drain shall extend beyond the line of such sewer or drain, no commissioner appointed to assess the benefits conferred by the construction of any such sewer or drain shall be disqualified because of his being interested as owner in any lands situate beyond the line of such sewer or drain, but included within the area or district benefited thereby.

Ownership of lands no disqualification to commissioner.

III. Streets and sidewalks.

An act to provide for the removal of snow and ice from the sidewalks and gutters of the streets and highways in cities, towns and boroughs of this state.

P. L. 1882, p. 93.

Approved March 14, 1882.

Ordinances may be passed for the removal of snow and ice from sidewalks, &c.

90. SEC. 1. That it shall be lawful for any legislative body of any city, town or borough of this state to pass ordinances providing for the removal of snow and ice from any sidewalk and gutter of any street and highway that is graded, curbed and flagged in any such city, town or borough.

On owner's failure to remove, street commissioner may do it.

91. SEC. 2. That it shall be lawful to provide in any such ordinance for the removal of the snow and ice from any sidewalk and gutter as aforesaid, by the street commissioner of any such city, at an expense not exceeding one cent per front foot where the owner of the land in front of the same fails to remove the snow and ice within twenty-four hours after any such sidewalk or gutter was covered with snow and ice.

Costs and expenses of removing by street commissioner, how collected.

92. SEC. 3. That the costs and expenses paid and incurred by said street commissioner for removing the snow and ice from any sidewalk and gutter as aforesaid, may be certified by said street commissioner to the proper officer or officers or board of revision of taxes, whose duty it is to assess and levy the taxes of any such city, town or borough, and the same shall be added to the taxes of the lot or lots or parcels of land in front of the sidewalks and gutters from which the snow and ice was removed, and shall be a part of the same as a first and paramount lien upon said land and premises.

An act respecting the repairing and relaying of plank, stone and other walks in incorporated towns and boroughs of this state.

P. L. 1883, p. 46.

Approved February 23, 1883.

Authorities in towns and boroughs may provide by ordinance for repairing walks.

93. SEC. 1. That it shall be lawful for any legislative body of any incorporated town or borough of this state, where plank, stone or other walks are now laid, or may hereafter be laid, to provide by ordinance for the repairing or relaying of the same.

Street commissioner to repair walk where owner fails to do so.

94. SEC. 2. That it shall be lawful to provide in such ordinance for the repairing or relaying of any such plank, stone or other walk by the street commissioner of any such incorporated town or borough, where the owner or owners of the land in front of the same fail to repair or relay the same within twenty days after notice served on him or them, or their agent or agents, of such needed repairing or relaying, by the said street commissioner.

Cost to be assessed on lot fronting such walk.

95. SEC. 3. That the cost and expense paid and incurred by said street commissioner for repairing or relaying such plank, stone or other walks as aforesaid, shall be certified by said street commissioner to the proper officer or officers, or board of revision of taxes, whose duty it is to assess and levy the tax of any such incorporated town or borough, and the same shall be added to the taxes on the lot or lots or parcels of land in front of the plank, stone or other walks so repaired or relaid, and shall be a part of the same as a first and paramount lien upon said land and premises.

An act to provide for the removal of snow and ice from the sidewalks and gutters of the streets in incorporated towns and boroughs in this state.

P. L. 1884, p. 18.

Approved February 13, 1884.

Removal of snow and ice from sidewalks and gutters in towns and boroughs.

96. SEC. 1. That it shall be lawful for the common council, or other governing body of any incorporated town or borough of this state, to provide by ordinance for the removal of snow and ice from the sidewalks and gutters along the streets in any such incorporated towns and boroughs by the owner or owners of the property in front of which such sidewalks and gutters are.

97. SEC. 2. That it shall be lawful to provide in any such ordinance for the removal of the snow and ice from any such sidewalks and gutters by the street commissioner or other officer having charge of the streets of any such incorporated towns and boroughs, where the owner or owners of the land in front of the same fails to remove the snow and ice therefrom within five hours after such snow or ice has fallen or accumulated.

When owner fails to remove, street commissioner may.

98. SEC. 3. That it shall be lawful to provide in any such ordinance that the cost and expense paid and incurred by the street commissioner or other officer, for removing such snow and ice from any such sidewalks and gutters, shall be certified by said street commissioner or other officer to the proper officer or officers or board of revision of taxes, whose duty it is to assess and levy the tax of any such incorporated town or borough, and the same shall be added to the tax or taxes on the lot or lots or parcels of land in front of which such sidewalks and gutters are, from which such snow and ice have been removed, and shall be part of the same as a first and paramount lien.

Expenses incurred by street commissioner, how collected.

An act to authorize the amendment and re-institution of defective or illegal proceedings for laying out, opening, altering or closing streets and avenues in incorporated boroughs, towns and villages, and assessments on account thereof, and for the collection of said assessments.

Approved March 5, 1884.

P. L. 1884, p. 54.

99. SEC. 1. That whenever, by reason of any informality or illegality in any proceedings of the board of commissioners, surveyor or other agent of any incorporated borough, town or village, or of the governing body thereof, in laying out, opening, altering, widening or closing any street or avenue, or in the assessment of damages on account thereof, the same shall be liable to be set aside or contested, any board of commissioners or other governing body for the time being, of such incorporated borough, town or village, shall have power to annul and re-institute said proceedings from the point where such informality or illegality commenced or occurred; and no assessment shall be taken to be invalid in consequence thereof, and such proceedings shall be carried on and perfected from the point or place of such re-institution or amendment to the end, as completely and effectually, to all intents and purposes, as if such informality or illegality had not occurred.

When proceedings to open street, &c., have been illegal, they may be re-instituted.

100. SEC. 2. That if any new assessment shall be made under said re-instituted or amended proceedings, 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 laying out, opening, altering, widening or closing, such proportion of the costs, damages and expenses thereof as will be equal to the amount of benefits actually acquired by said lands and real estate from such laying out, opening, altering, widening or closing, proportioned equitably to the benefit each of said 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 incorporated borough, town or village, out of moneys raised thereby for that purpose.

On new assessment, costs to be assessed upon lands benefited.

101. SEC. 3. That if any assessment or assessments shall have been paid before such re-institution or amendment of proceedings, the same shall be a credit on any new assessment, if any, which may be made under the said re-instituted or amended proceeding, and if the same shall happen to amount to more than such new assessment, the surplus shall be repaid.

Assessment paid before re-institution, &c., to be a credit on new assessment and surplus, if any, repaid.

102. SEC. 4. That any assessment which may have been made, or which may hereafter be made under the said proceedings, either originally or as re-instituted or amended, shall be paid to the said commissioners or other governing body, or the treasurer of said incorporated borough, town or village, within sixty days after written demand thereof shall be made by said commissioners or other governing body, or their duly-authorized agent for that purpose; and in case of neglect or refusal, said commissioners or other governing body shall make out a list of delinquents and place the

When assessment shall be paid.

How delinquent assessments shall be collected.

same in the hands of one of the justices of the peace of the township in which said borough, town or village is situated, who shall issue a precept in the nature of a tax warrant, directed to the marshal of the said borough, town or village, or one of the constables of the county, who shall proceed to collect the amount due from such delinquents in the same manner as township and county taxes are or hereafter may be authorized by law to be collected; *provided*, that before such warrant shall be issued, such justice shall be satisfied, by the oath of one of the said board of commissioners or other governing body, that the amount claimed against such delinquent is justly due and unpaid, and that the same has been demanded as required by this act.

Proviso.

An act to enable boards of commissioners and improvement commissions in towns and villages, or within townships in this state, to enforce their ordinances respecting the laying and repairing of sidewalks, and to collect assessments for the cost and expenses thereof.

P. L. 1886, p. 237.

Passed April 16, 1886.

Commissioners to have sidewalk flagged, &c., on refusal or neglect of owner.

Expense, how collected from owner.

103. SEC. 1. That in case any owner of lands in front of which any sidewalk is required, by ordinance of any such board of commissioners or improvement commission, to be graded, laid, flagged, repaired, curbed or improved, shall neglect or refuse to cause said work to be done within thirty days from notice of such ordinance, such board of commissioners or improvement commission may have said work done at the expense of the owner of said land, and in addition to any powers now possessed for enforcing such ordinance, may either recover from said owner the amount of the cost and the expenses thereof by suit, in any court of competent jurisdiction, in an action of debt or upon contract, or may assess said cost and expenses upon the lot or tract of land in front, or, if such lands lie on a corner of any street, in the side thereof of which the work may be done, and certify said assessment, together with a short description of said land, to the collector who collects the other taxes within said commission limits, and cause a copy of said certificate to be filed in the office of the clerk or register of the county and recorded in the book of returns of unpaid taxes for the township wherein said lands are situate; and the amount of said costs and expenses shall, from the date of the filing of said certificate, be a first and paramount lien on said lands for the space of two years. (a)

Costs and expenses to remain a lien.

Collector to notify owner of assessment.

Failure of owner to pay, amount to be added to annual taxes.

Payment of, how enforced.

Notices of ordinance and assessment, how served.

104. SEC. 2. That said collector shall forthwith, upon receiving such certificate, serve notice of said assessment upon the owner 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 shall fail or neglect to make such payment on demand, the amount of said assessment shall be added to the annual taxes 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 is enforced.

105. SEC. 3. That notice of the ordinance mentioned in the first section of this act, and also notice by the collector and demand of payment of such assessment, may be given either by personal service of a copy of said ordinance or of said notice and demand, as the case may be, or by leaving such copy thereof at the residence of said landowner, if residing within the limits of the jurisdiction of said commissioners, or if a non-resident, by mailing said copy to his post-office address, if known, and by publication once a week for three weeks in one of the newspapers published within said commission limits, the cost of such publication to be added to said assessment and collected therewith.

(a) By the provisions of this act, a lien can be imposed upon land only where the owner is, by ordinance, and not by resolution, required to make the improvement. *Penwarden v. Dunellen*, 21 *Vr.* 565.

106. SEC. 4. That upon payment of said assessment it shall be the duty of the clerk or register in whose office any such certificate as is mentioned in the first section of this act may be filed, to discharge the same from the record of the book of tax returns in his office, upon filing with him the receipt of the payment of said assessment made by said commission, or by the collector by whom the same may have been collected, for which service said clerk or register shall be paid the sum of twenty cents.

Upon payment of assessment, clerk to discharge record.

Fee of clerk.

An act authorizing the lighting of public streets and places in the cities, towns, townships, boroughs and villages of the state.

Passed June 1, 1886.

P. L. 1886, p. 389.

107. SEC. 1. That it shall hereafter be lawful for the common council, township committee, or other municipal authorities of any city, town, township, borough or village in the said state, from time to time, and by ordinance or resolution, to order and cause any public street or streets, place or places, or any part or parts thereof, in any such city, town, township, borough or village, respectively, to be lighted with gas or otherwise, and for that purpose to erect and maintain, or cause to be erected and maintained, all necessary and proper posts, lanterns and fixtures, and to make and enter into any contract or contracts with any other party or parties in relation to the same, and to cause the annual expense thereof, after being ascertained or determined by a resolution of said council, committee or other municipal authorities, to be certified unto the assessor or assessors of said city, town, township, borough or village; and that such annual expense shall thereupon be levied, assessed and collected from all the real and personal property in said city, town, township, borough or village, respectively, in the same manner, at the same time and under the same penalties (but without any extra compensation therefor), as the taxes for the working or repairing of roads or streets in such city, town, township, borough or village, respectively, are or may be; *provided, however,* that in making such assessment of the tax hereby authorized, the said assessor or assessors shall not be restricted or controlled in any way whatsoever by any special or other act of the legislature heretofore passed, whereby the amount of any tax to be raised in any city, town, township, borough or village is limited to a certain percentage upon the valuation of the assessed property therein. (a)

Any municipality may cause streets to be lighted with gas or otherwise.

Annual expense, how ascertained and determined.

How assessed and collected.

Proviso.

108. SEC. 2. That any act or acts, or any part or parts thereof, inconsistent with the provisions of this act, is and are hereby repealed in so far as it or they is or are inconsistent herewith, and that this act is hereby declared to be a public act and shall take effect immediately.

Repealer.

An act to authorize certain municipalities to lay out, open, extend, alter and work streets and highways, and to provide for the payment of the expense thereof.

Approved April 21, 1887.

P. L. 1887, p. 181.

108 a. SEC. 1. That the council or other governing body of any borough in this state not possessing authority by law to lay out, open, extend, alter, widen or straighten streets and highways therein, and assess the costs and damages of such laying out, opening, extending, altering, widening or straightening of such street or highway upon the property benefited thereby, shall have power by ordinance to lay out, open, extend, alter, widen or straighten the streets and highways therein, or any part thereof, upon written application of the person or persons owning two-thirds of the frontage of the property lying on said street or highway, and for this purpose may treat with the owner or owners of real estate to be taken for this purpose, and pay for the same such compensation as may be deemed just and right; and if the governing body of such municipality shall be unable to agree with the owner or owners of the required lands, or if by reason of

Boroughs may lay out, open, &c., streets and highways.

(a) See *Taylor v. Lambertville*, 16 Stew. 112.

the legal incapacity or the absence of such owners no agreement can be made with them, then commissioners appointed as hereinafter provided shall estimate the damages such owners will sustain. (a)

Damages and costs to be assessed by commissioners.

Proviso.

Notice of meeting to be published to consider commissioners' report.

To hear and determine all objections.

Report may be confirmed, &c.

Clerk to record report if confirmed.

Assessments to be and remain a lien upon lands.

Duty of clerk and collector of taxes.

Proviso.

Streets and highways may be graded, graveled, &c.

Repealer.

108 b. SEC. 2. That the damages and costs of such laying out, opening, extending, altering, widening or straightening of such street or highway shall be assessed by three disinterested freeholders, to be appointed by the council or other governing body, fairly, legally and equitably, upon the owners of the property benefited thereby, in such proportion and to such extent as the commissioners may deem such land to be so benefited; *provided*, that nothing in this section contained shall apply to any street or highway where proceedings are now in progress for laying out, opening, extending or altering such street or highway.

108 c. SEC. 3. That the governing body of such municipality shall give two weeks' notice, in one or more newspapers published in the borough, or by handbills posted in five conspicuous places therein, of a meeting at which the report of the commissioners will be considered, and at such meeting, and at adjourned meetings held without notice, shall hear and determine all objections to said report by parties interested therein; they may add to any assessment with consent of the person so assessed, and may confirm the report of the commissioners, and carry out the proposed street opening or alteration, and direct the costs and expenses in excess of the assessment to be paid out of any appropriation for the making and repairing of streets, if in their judgment the best interests of the municipality will be subserved thereby, unless such costs and expenses shall be more than double the assessment for benefits; and in anticipation of the collection of the assessments, may make payment for the lands so taken with any available funds appropriated for street purposes.

108 d. SEC. 4. That upon such confirmation of the award of the commissioners the clerk of the council or other governing body shall enter the same in their minutes, and the same shall be final and conclusive upon all parties affected thereby; and such assessment shall be a first and paramount lien upon said lands until the same shall be paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereon, or any mistake in the names of the owners thereof; the clerk shall furnish a copy of the assessment to the collector of taxes for the said borough, who shall collect the assessments in the same manner and under the same penalties as taxes for other purposes are collected; *provided*, that an appeal from the decision of the commissioners on the part of any person whose land is taken under the provisions of this act, shall be authorized to the next term of the circuit court of the county in which the land lies, which court shall have full power to hear and determine the same, the costs of such appeal to abide the order of the court.

108 e. SEC. 5. That the council or other governing body of such municipality may, by ordinance, direct the streets and highways therein to be graded, guttered, graveled, macadamized or otherwise worked, and for this purpose may raise by tax such sums annually as in their judgment will be required; reserving on either side of such street or highway an equal portion thereof for sidewalks; *provided*, that this section shall not be construed to alter or waive any limitation of indebtedness or of the rate of taxation now binding upon such municipality.

108 f. SEC. 6. That all acts, general or special, inconsistent herewith be and the same are hereby repealed, and that this act take effect immediately.

An act to authorize the paving of streets in boroughs and incorporated towns of this state, and to provide for the payment thereof.

P. L. 1888, p. 340.

Approved March 30, 1888.

Municipal authorities of boroughs and towns may by ordinance direct streets to be paved.

109. SEC. 1. That it shall be lawful for the common council or other governing body of any borough or incorporated town within this state, on the application of the owners of at least one-half of the lineal frontage of

(a) See *In re Public Road*, 25 Vr. 512.

land along any public street or alley or section of a public street or alley, or upon the application of a majority of the owners of lots fronting or bordering upon any public street or alley, by ordinance to direct the said street or alley or section of a street or alley, and the gutters thereof, to be paved or flagged, either in whole or in part, in such manner as they may deem most advisable, under the supervision of such person or persons as they shall designate for that purpose, not being a contractor or contractors for the said work.

110. SEC. 2. That in order to assess the benefit on the land and real estate fronting or bordering on said street or alley arising from such improvement, the said governing body shall apply to the circuit court of the county wherein such borough or town is situate, either in term time or vacation, for the appointment of commissioners to estimate and assess such benefits, of the time and place of which application notice shall be given by five days' publication in two newspapers printed or circulating in such borough or town, at which time and place, or at such other time and place as the court shall designate, said court shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of such borough or town, 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.

Proceedings for assessment of benefits.

Appointment of commissioners.

111. SEC. 3. That 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 oaths and affirmations, 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 oath.

112. SEC. 4. That 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 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 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 such improvement, 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.

Commissioners to give notice for hearing.

May swear witnesses.

To ascertain names of owners.

113. SEC. 5. That after having given opportunity for a public hearing of the persons in interest as aforesaid, and having viewed the lands and real estate fronting or bordering upon the street or alley, or section thereof so improved, the said commissioners shall make a report in writing of their estimates and assessments to the said court; the said report shall state the cost of the whole work, the portion assessed upon such borough or town at large, and shall give the names, so far as ascertained, of the owners of the lots or parcels of land and real estate peculiarly benefited by such improvement, and the amount of the assessment to each owner 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 such improvement; the excess of such improvement, over and above the amount of said benefits, shall be paid by such borough or town at large, and raised by general tax in the manner hereinafter mentioned; and in no case shall any property or owner thereof be assessed beyond the amount of benefit actually derived from such improvement.

When commissioners to make report.

What report to state.

Excess over benefits, how paid.

Proceedings for confirmation of report.

114. SEC. 6. That 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 said 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 borough or town 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, if any there be, to be transmitted to the clerk of such borough or town, 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 collector or other officer of such borough or town charged with the duty of collecting assessments for improvements.

Copy of report and map transmitted to clerk.

When certiorari not to be allowed.

115. SEC. 7. That no certiorari shall be allowed by any court to review any of the proceedings in relation to such improvement, nor to in any way affect any 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.

Notice of confirmation of report.

Assessments to be a first lien on lands affected.

116. SEC. 8. That all assessments made under the provisions of this act shall be and remain a first lien upon the lands and real estate affected thereby, notwithstanding any error or omission in stating the name or names of the owner or owners of any lot or parcel of such land and real estate, until the same shall have been paid; and after any street or alley, or section of a street or alley, shall once have been so improved, then such borough or town shall take charge of and keep the same in repair at the general expense.

Authorities to take charge of street or alley when improved.

How owners may pay assessments.

117. SEC. 9. That the owners of the lots or parcels of land and real estate so assessed may pay the amount thereof in ten equal yearly payments, with interest thereon from the date of the confirmation of the same, at the legal rate, payable annually; upon failure to make such annual payments, or any of them, or upon failure to pay any of the interest as aforesaid, the whole of such assessment then remaining unpaid shall become immediately due and payable, and in case of non-payment the lands and real estate assessed therefor may be sold in the same manner as provided for in the sale of lands for the non-payment of assessments for public improvements made under the laws governing such boroughs and towns.

Lands may be sold for non-payment.

Costs and expenses of improvement to be paid by the issue of bonds.

118. SEC. 10. That for the purpose of paying the costs and expenses of paying the streets and alleys as herein authorized, and all other expenses incident thereto, the governing body of such borough or town are hereby authorized to issue bonds in their corporate name, of such denominations as to them may seem fit, bearing interest not exceeding the legal rate, payable semi-annually, and redeemable in ten years from the date thereof; *provided, however,* that the same be not sold for less than their par value.

Disposition of moneys received from assessments for benefits.

119. SEC. 11. That all receipts from assessments made against property benefited by such improvement shall be, as soon as received, paid over to the sinking fund commissioner of such borough or town, for the payment of the interest on such bonds as it accrues, and their payment and redemption when due, and if no such commissioner exist in such borough or town, then the said moneys shall be set apart by the collector or other officer having charge of the funds for a like purpose, and in no case shall such moneys be used for any other purpose whatever.

120. SEC. 12. That in case it shall be found that such benefits will not furnish a sufficient fund to meet the interest and pay such bonds, it shall be the duty of the governing body of such borough or town annually to raise, by tax, such sum as will, in addition to such benefits, be sufficient for this purpose, making it an equal sum each year, and which shall be set apart and used in the same manner as provided for in the preceding section.

If fund from benefits not sufficient to pay bonds, balance to be raised by tax.

121. SEC. 13. That the following fees shall be allowed for services rendered under this act, viz.: 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; to such commissioner, five dollars for every day he shall be actually engaged in the performance of the duties herein required of him; the foregoing fees to be paid by the borough or town in which the improvement is made.

Fees for services under act.

Proviso.

How paid.

An act authorizing certain towns and townships to extend streets or roads over and into adjoining municipalities.

Approved April 23, 1888.

P. L. 1888, p. 457.

122. SEC. 1. That whenever, in the judgment of the governing body of any town or township in this state having authority to lay out, open and improve streets, roads or highways within the limits of such town or township, it shall be deemed to the interest and advantage of the inhabitants of such town or township that any street or road proposed or contemplated to be laid out therein should be extended over and into the territory of an adjoining city so as to connect safely and conveniently with a street or avenue in such adjoining city, it shall be lawful for, and the necessary power and authority are hereby granted to such governing body, to acquire by purchase such lands in the adjoining city as may be proper and necessary for such extension as aforesaid, and after such lands shall have been acquired, to lay out, open, construct, grade, pave, flag and otherwise improve such street or road, or extension thereof thereon; *provided*, that such street, road or extension shall be laid out and constructed so as to not interfere with the free use of any street or avenue in such adjoining city.

Governing body of town or township may extend road or street into an adjoining municipality.

Proviso.

123. SEC. 2. That the cost of the land for such extension and the cost of grading or otherwise improving the same, shall, for the purposes of assessment, be included in and form part of the cost of opening, laying out and constructing the street or road in such town or township with which such extension shall connect.

Cost of such improvement, how paid for.

An act respecting contracts by boards of commissioners in townships or villages, for lighting public streets.

Approved May 7, 1889.

P. L. 1889, p. 384.

124. SEC. 1. That it shall be lawful for any board of commissioners within any township or village in this state, having authority to procure and supply lights for lighting the public streets, to make a contract with any person or corporation for the supplying of such lights, for a year or term of years, which contract when so made shall be lawful and valid, and the money payable under said contract in each year shall be levied and raised by taxation in the annual tax levies of such year; *provided*, that no such contract shall be made for a longer period than five years.

Board of commissioners may contract for light to streets.

Proviso.

An act to authorize the common council of incorporated towns and boroughs of this state to sell and convey lands in certain cases.

Approved June 3, 1890.

P. L. 1890, p. 412.

125. SEC. 1. That when the common council of any incorporated town or borough shall have become the owner of any lands, not exceeding in value five hundred dollars, which were purchased in order to have any

Towns and boroughs may sell certain lands acquired, but not needed for street purposes.

street entirely opened which had been partially opened and dedicated to the public by the owners of the land as a public street, the common council of such incorporated town or borough may, by resolution, order such lands as shall not be required to entirely open such street to be sold in such manner as will bring the best price and be the least expense to the said town or borough.

Deeds, how made.

126. SEC. 2. That any deed made under the provisions of this act shall be made and executed in the corporate name of such town or borough, and under its corporate seal, and shall be signed by the mayor and clerk of such town or borough, and be acknowledged as deeds made by corporations are acknowledged and proved, and such deed so made, executed and acknowledged, shall convey to the purchaser all the estate in fee-simple that was conveyed to the town or borough.

An act to authorize the improvement of roads, streets and highways in boroughs and incorporated villages in this state, and to provide for the payment thereof.

P. L. 1890, p. 451.

Approved June 13, 1890.

Boroughs and villages may issue bonds for improving roads, streets, &c.

127. SEC. 1. That it shall be lawful for the common council or other governing body of any borough or incorporated village within this state to issue bonds to an amount not exceeding thirty thousand dollars in any one year, in their corporate name, of such denomination as to them may seem fit, bearing interest not exceeding the legal rate, payable semi-annually, and redeemable in twenty years from the date thereof, for the purpose of paying the costs and expenses of improving the roads, streets and highways in such borough or incorporated village, either in whole or in part, and in such manner as they may deem most advisable, under the supervision of such person or persons as they shall designate for that purpose, not being a contractor or contractors for the said work ; *provided, however,* that no common council or other governing body of any such borough or incorporated village shall issue any such bonds unless the question of the issue of such bonds shall have been submitted to the voters of such borough or incorporated village at the last annual borough, village or charter election, or at a special election called for the purpose by the mayor, president or other executive officer thereof by proclamation, giving thirty days' notice of the time and place for holding the same, and a majority of the votes cast in relation thereto at such election shall declare in favor of issuing of such bonds.

Proviso.

Repealer.

128. SEC. 2. That all private, special or local 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 boards of commissioners and improvement commissions in towns and villages, or within townships in this state, to pass and enforce their ordinances respecting driving upon the public streets, and to collect the penalty for the violation thereof.

P. L. 1891, p. 60.

Passed February 23, 1891.

Boards of commissioners or improvement commissions may regulate driving upon the public streets.

129. SEC. 1. That it shall be lawful for any such board of commissioners or improvement commissions to pass all ordinances regulating driving upon the public streets within the limits of the jurisdiction of the said commission, and to enforce the observance of all such ordinances, by penalties, for the violation thereof, either by imprisonment, before any justice of the peace, within the limits of the jurisdiction of the said commission, in the county jail, not exceeding ten days, or by a fine, not exceeding ten dollars for each offense, recoverable with costs in an action of tort in the name of said commission, before any justice of the peace within the limits of the jurisdiction of said commission and for the use of said commission.

An act to authorize the improvement of roads, streets and highways, in towns, boroughs, villages and municipalities governed by boards of commissioners or improvement commissions, and to provide for the issuing of bonds for the payment of the expenses thereof.

Approved March 16, 1891.

P. L. 1891, p. 162.

130. SEC. 1. That it shall be lawful for the governing body of any town, borough or village or of any municipality governed by a board of commissioners or improvement commission within this state, whenever authorized by a majority of the votes cast at an election held for the purpose as herein provided to expend such sum as may be authorized by such vote, not exceeding sixty thousand dollars, for the purpose of paying the cost and expenses of improving the roads, streets and highways within such municipality, either in whole or in part, in such manner as they may deem advisable, and to issue bonds therefor, in the corporate name of such municipality, in the manner hereinafter provided.

Towns, boroughs, &c., may issue bonds for improvement of roads, streets, &c.

131. SEC. 2. That whenever in the judgment of the governing body of such town, borough, village or other municipality, it shall be deemed advisable to make any expenditure authorized by this act and to issue bonds therefor, the said governing body may order an election to determine whether bonds shall be issued to procure money for the payment of the cost and expenses of the proposed improvement, and shall designate the time and place for holding such election and appoint judges and inspectors thereof, which election may be at the time and place fixed by law for the election of municipal officers, or may be a special election called for the purpose; *provided*, that when a special election shall have been ordered under the provisions of this act, six calendar months shall elapse before any order for another such special election shall be issued; the polls shall be open at least from two o'clock until seven o'clock in the afternoon; notice of the said election and of the amount of bonds proposed to be issued, which amount shall not exceed sixty thousand dollars, shall be given by advertisements, set up in at least five public places in said municipality for at least ten days previous to said election and published once a week for two successive weeks in three newspapers circulating therein; on the ballots used at such election shall be printed or written "for the issue of bonds" or "against the issue of bonds," and the said election officers shall return to the governing body of said municipality a true and correct statement in writing under their hands of the result of such election.

Election as to issue of bonds to be ordered.

Proviso.

132. SEC. 3. That if at such election a majority of all the ballots cast shall be "for the issue of bonds," it shall then be lawful for the governing body of such municipality to proceed with the improvement of said roads, streets and highways, said work to be done by contract, and to incur an expense therefor not exceeding the amount mentioned in the notice of such election, and to issue registered or coupon bonds of such municipality for the purpose of providing funds to pay the costs and expenses of such improvements, such bonds to be issued from time to time as occasion may require, but not to exceed in the aggregate the amount mentioned in the notice of such election; the bonds may be made payable at times to be therein specified, not more than twenty years after issuing the same, and shall be so issued that an equal portion of the same shall be made payable in each year from and after five years from date of said bonds, or may be made payable at earlier periods as may be determined by the governing body issuing the same, and shall be disposed of in such manner as the governing body of such municipality may determine, but in no case shall any such bonds be issued or sold at less than the par value thereof, or shall any such municipality issue bonds under this act so that the amount of such bonds outstanding at any one time shall exceed in the aggregate sixty thousand dollars.

If majority decide "for the issue of bonds," governing body to proceed with the improvement.

Time of payment of bonds.

133. SEC. 4. That it shall be the duty of the governing body of such municipality to cause to be raised by taxation, in each year, the moneys necessary to pay the amount of interest of such bonds, and also the installment of principal falling due the subsequent year, which moneys shall be

Principal and interest to be raised by taxation.

assessed and collected in the same manner as other taxes are assessed and collected, for the use of such municipality.

"Municipality" to mean corporation governed by a commission.

134. SEC. 5. That the word "municipality," whenever used in this act, shall be construed to mean any town, borough, village or any municipal corporation or locality governed by a board of commissioners or by an improvement commission.

An act authorizing municipalities governed by commissioners to pave and improve streets and avenues and provide for the payment thereof.

P. L. 1891, p. 206.

Approved March 20, 1891.

Municipalities authorized to pave and improve streets.

135. SEC. 1. That whenever the governing body of any municipality, by whatever name the same may be known, and however created, governed by commissioners, shall be desirous of causing any street or streets, avenue or avenues, or portion thereof, lying within the limits of such municipality to be paved, macadamized or otherwise improved, it shall be lawful for such body, by a majority vote of all the members thereof, at any regular meeting thereof, to call an election of the voters of such municipality by a resolution of such body containing the following statements, viz.:

Time of election.
Object.

I. The time of holding such election ;
II. The object thereof being to obtain the consent of such voters to the paving, macadamizing or improving of a certain street or streets, avenue or avenues (naming it or them), or portion thereof (describing it), and the assessment and collection of one-half of the cost thereof upon all property adjoining and abutting on such improvement ;

Amount to be expended.

III. The amount of money to be expended for such improvements.

Resolution to be published and posted.

136. SEC. 2. That such resolution shall be published at least two weeks before the holding of such election by setting up a copy thereof in at least ten public places in each ward of said municipality and publishing said copy for two weeks, at least once a week, in a newspaper published in said municipality, or if said municipality be not divided into wards, then by setting up a copy of such resolution in at least ten public places in said municipality, and publishing the same in manner aforesaid in a newspaper, if there be one published in said municipality.

Manner of conducting the election.

137. SEC. 3. That the election shall be held at the time stated in said resolution, and that the election officers elected at the last municipal election held in said municipality shall serve at said election ; vacancies to be filled as they are in general municipal elections in said municipality ; and the polling places shall be the polling places used at the said last election, unless said governing body shall in such resolution designate other polling places ; the polls shall open and close at the same hours as they do in all municipal elections held in said municipality, and said election shall be conducted in all respects in the same manner as all such municipal elections are conducted in such municipality.

Form of ballots.

138. SEC. 4. That all ballots cast at said election shall have the following words printed or written thereon, viz. : "for improving ——— street" (inserting name of street), or "against improving ——— street" (inserting name of street) ; each ballot may be in favor of as well as against improving certain streets or avenues named thereon, and that the same may be printed on and voted with the official ballots cast at the municipal election when held on the same day.

If majority are against improving, no other election within one year.

139. SEC. 5. That if a majority of the ballots cast at such election are against improving the street or avenues named therein the said governing body shall proceed no further, and no other election concerning the street or avenue named in such ballot shall be held within one year from the holding of said election.

If majority favor improving, governing body to advertise for bids.

140. SEC. 6. That if a majority of said ballots cast at said election are in favor of improving certain streets or avenues named therein, it shall be lawful for said governing body to proceed at once to advertise for at least two weeks, once in each week, in a newspaper published in said municipality, for bids for making such improvement, and that such work shall be done by written contract by the lowest responsible bidder.

141. SEC. 7. That an accurate account of the cost of such improvement shall be ascertained by said governing body as soon as possible after the completion thereof, and filed with the clerk of said municipality.

Cost of improvement to be ascertained and filed.

142. SEC. 8. That when the improvement as aforesaid shall have been completed, and the statement of the cost thereof filed with the clerk of said municipality as prescribed by the seventh section of this act, said governing body shall give notice of the appointment of commissioners to estimate and assess the peculiar benefits conferred by such improvement upon the lands and real estate fronting or bordering on the street or streets or section thereof improved, of the time and place of which appointment notice shall be given by two weeks' publication in two weekly newspapers printed and circulating therein, at which time and place, or at such other time and place as the governing body shall designate, said governing body shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of the municipality, to estimate and assess the benefits aforesaid; the said governing body 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.

Commissioners to be appointed to assess benefits.

143. SEC. 9. That said commissioners, before entering upon 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 assessments and estimates 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.

Removal of commissioners.

Oath of commissioners.

144. SEC. 10. That the said commissioners having thus qualified shall give notice, under the direction of said governing body, of the time and place when and where they will hear any persons in interest or who may present themselves to be heard, and at such time and place, and at such other times and places to which they may adjourn for that purpose, the said commissioners shall attend, and shall give a public hearing to those persons in interest who may desire to be heard; the said commissioners shall have power to examine witnesses under oath, to be administered by any one of them, and to enter upon and view the lands and real estate fronting or bordering on the street or streets or section thereof improved, and to adjourn from time to time in their discretion, or as directed by said governing body; they shall use diligent efforts to ascertain the names of the owners of the lands fronting or bordering on the street or streets or section thereof improved, and shall state the same in the report hereinafter mentioned; but the failure to ascertain the name of any owner, or to state the same correctly, or the omission of any such name from the report shall not invalidate said assessment nor be a bar to the collection of the same.

Proceedings before commissioners.

Power to examine witnesses.

To ascertain names of owners.

Failure to so ascertain not to invalidate assessment.

145. SEC. 11. That after having given opportunity as aforesaid for a public hearing of the persons in interest, and having viewed the lands fronting or bordering on the street or streets or section thereof improved as aforesaid, the said commissioners shall make a report, within forty-five days from the time of their appointment in writing, of their estimates and assessments to the said governing body accompanied by a survey and maps prepared under their direction, showing the several tracts or parcels of lands and real estate fronting or bordering on said street or streets or section thereof; the said report shall state the cost of the whole work, which may be furnished to the commissioners by the clerk of the municipality from the report filed with him under the requirements of the seventh section of this act, and shall give the names, so far as ascertained, of the owners of the tracts or parcels of land and real estate fronting or bordering on said street or streets or section thereof and the amount of the assessment to the owner or owners of each of said tracts or parcels of land and real estate for the said benefits, which several assessments shall be in proportion, as near as may be, to the peculiar benefits deemed to have been conferred by said improvement upon the respective tracts of lands and real estate aforesaid; in no case shall any tract or parcel of land and real estate or any owner thereof be assessed beyond the amount

Commissioners to make report.

To state cost and names and amount of assessment.

Rate or amount of assessment.

of benefit actually derived from said improvement, nor shall the aggregate amount of assessments imposed upon the tracts or parcels of land fronting or bordering on such road or section thereof exceed fifty per centum of the total cost of the improvement, nor shall the amount of assessment imposed upon any tract or parcel of land and real estate, or any owner thereof, exceed twenty-five per centum of the whole cost of such improvement in front of such tract or parcel of land and real estate, and shall in no case exceed the special benefit derived from said improvement.

Proceeding on the coming in of the report.

146. SEC. 12. That upon the coming in of any such report, signed by the said commissioners, or any two of them, said governing body 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 governing body by resolution, 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 governing body forthwith, to reconsider the subject-matter thereof, and the said commissioners to whom such report shall be so referred by the governing body, 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 by the said governing body 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 said governing body shall confirm; such report, when so confirmed, shall be final and conclusive as well upon the said municipality as upon the owners of any lands and real estate affected thereby; said governing body shall thereupon cause said report to be filed with the clerk, and a certified copy thereof and of the accompanying map and of the resolution confirming the report to be delivered to the collector of taxes of said municipality, in which the assessed lands may lie.

Report to be final and conclusive.

And filed with clerk.

Limit of time for allowing certiorari.

Confirmation of report.

Assessment to be first lien on lands.

147. SEC. 13. That no certiorari shall be allowed by any court to review any of the proceedings in relation to such improvement, nor to in any way affect any assessment made by such commissioners after the lapse of thirty days from the making of the resolution of the governing body confirming such assessment; the governing body shall designate what notice, if any, shall be given, by publication or otherwise, of the confirmation of the report of said commissioners.

148. SEC. 14. That the assessment made by the commissioners shall be and remain a lien upon the lands assessed from the time said report shall have been delivered to the collector of taxes of said municipality, in the same manner and to the same extent that taxes are liens upon the lots or tracts of land in said municipality.

Collector to collect assessments.

149. SEC. 15. That the collector of said municipality shall, as soon as said report is delivered to him, proceed to collect the assessments named in said report, and shall give notice by advertisement in two newspapers printed and published in the municipality for two weeks at least, once each week successively, stating in general terms the lands comprised in such assessment, and requiring the owners of lots and tracts of lands assessed in such report to pay the amount to him within six months from the first publication or giving of such notice.

Proceedings to collect delinquent assessments.

150. SEC. 16. That if any assessment upon any lot or tract of land made under the provisions of this act shall not be paid within six months after the time appointed in said notice, the governing body, or a majority of them, may, as they shall deem proper, either bring an action on the case in any court of competent jurisdiction, in the corporate name of such municipality, against the owner or owners of such lot or tract of land, for so much money laid out and expended by them for the use of such owner or owners, and declare generally and give special matter in evidence, and either party from any judgment rendered therein may have the same remedy by appeal or otherwise as if said parties were private individuals, or may proceed to collect the said assessment by sale of the lots or tracts of land whereon such assessment has been imposed or may be a lien in the

same manner and to the same extent as lands are now sold for unpaid taxes in said municipality, and the purchaser or purchasers at any such sale or sales, and his legal representatives, shall hold and enjoy such lots or tracts of land, with the rents, issues and profits thereof, in the same manner and by the same title and tenure as purchasers at the sales of lots or tracts of land for unpaid taxes can now hold and enjoy the same in said municipality.

151. SEC. 17. That the money so collected shall be applied to the payment of the notes hereinafter mentioned.

Disposition of moneys collected.

152. SEC. 18. That the remaining part or portion of the cost of such improvement or improvements shall be paid from the moneys now or that may hereafter be received by or for the use of such municipality from all license fees (except court and clerk's fees) from any and all licenses to sell spirituous, vinous, malt and brewed liquors, granted by the court of common pleas of the different counties of this state, or other licensing board or body, and paid over to the body or person entitled to the legal custody of the funds of any such municipality, which sums of money so received or hereafter received from all such license fees shall be by said governing body set apart as a special fund for such purpose.

Excess of costs over assessments, paid out of what fund.

153. SEC. 19. That the governing body of any municipality may issue notes of said municipality in anticipation of the assessment and collection of the part of the cost of such improvement or improvements upon the property adjoining and abutting on such street or streets, so to be paved, macadamized or otherwise improved, and in anticipation of the receipt of license fees as provided for by section eighteen of this act, sufficient to pay for the said improvement.

Notes may be issued in anticipation of collection of assessments.

154. SEC. 20. That no work on any such proposed improvement or improvements shall be commenced until the governing body of such municipality shall have deposited in such special fund, as provided for by section eighteen of this act, twenty-five per centum of the estimated cost thereof.

Improvements not to be commenced until twenty-five per cent. is deposited in a special fund.

155. SEC. 21. That the powers herein conferred shall be construed as being in addition to, and not in lieu of, any powers to pave, macadamize or otherwise improve streets or avenues, or to issue bonds contained in the provisions of any charter or act creating any municipality.

Powers conferred by this act are in addition to charter powers.

156. SEC. 22. That all acts and parts of acts, general or special, public or private, inconsistent with or repugnant to the provisions of this act, be and the same are hereby repealed.

Repealer.

An act in relation to the laying out, opening, widening and extending streets and highways in certain towns and townships.

Approved March 10, 1892.

P. L. 1892, p. 99.

157. SEC. 1. That where power and authority to provide by ordinance or otherwise for the laying out, opening, widening and extending streets and highways has been heretofore conferred by charter or other special act of the legislature upon the town committee or council of any town or township and cannot be exercised because no legal or sufficient method of procedure therefor has been provided, streets and highways may be laid out, opened, widened or extended in any such town or township in the manner hereinafter provided, and the proceedings for laying out, opening, widening or extending any street or highway therein shall be as follows: an application in writing signed by one or more owners of land which fronts on or is bounded by the line of the street or highway or section thereof proposed to be laid out, opened, widened or extended, shall be presented to the town committee or council at a stated meeting thereof, which application shall describe the location and courses of the street or highway or section thereof proposed to be laid out, opened, widened or extended; *provided, however,* that where in any such town or township there shall be an official map showing the location and boundaries of all streets and avenues opened and to be laid out and opened therein, a description according to such map shall be sufficient; on receiving any such application the town

Streets in towns and townships may be laid out, opened, widened and extended.

Application in writing to be presented to town committee or council.

Proviso.

committee or council shall consider the same, and if they approve it, shall direct the town clerk to publish such application together with a notice specifying the time and place when and where the town committee or council will meet to receive and consider objections in writing to the same, in at least one newspaper published in the county and circulating in such town or township for the period of two weeks successively at least once in each week next preceding the time designated for receiving objections, and to post printed copies of such application and notice in five public places in such town or township at least ten days before the time designated for receiving objections, and the said town clerk shall file in his office affidavits showing how such application and notice have been published and posted; the owner or owners of any lands fronting on the lines of the street or avenue or section thereof proposed to be laid out, opened, widened or extended shall have the right to present objections in writing thereto at the time and place specified in such notice; at the said time and place the town committee or council shall meet and shall hear all persons who may desire to be heard on such matter, and shall receive and consider all objections in writing thereto that may be presented; if it appear that the owners of a majority of the lands fronting on the lines of the street or highway proposed to be opened, laid out, widened or extended have objected thereto, then no further proceedings shall be had or taken under such application and the same shall be dismissed, but if it appear that the owners of a majority of such lands have not objected thereto then the town committee or council may by the votes of a majority of the members thereof adopt an ordinance to lay out, open, widen or extend the street or highway or section thereof designated in such application.

Commissioners to make awards and damages.

Commissioners to make oath.

Notice to be published.

Surveyor.

Commissioners to ascertain names and estates of owners.
View and examine lands.

Ascertain costs and damages.

Assess land benefited.

Make maps.

Report.

158. SEC. 2. That at any time after the adoption of such ordinance the town committee or council may appoint three disinterested freeholders, residents of such town or township, as commissioners to ascertain, determine and make the awards for lands and improvements required to be taken and for damages sustained, and the assessment for benefits hereinafter provided for; said commissioners before entering on the discharge of their duties shall make and file with the town clerk an oath or affidavit in which they shall swear that they are not interested in the matter committed to them, and that they will faithfully and impartially perform the duties of their offices; said commissioners shall publish a notice in one or more newspapers, published in the county, for at least two weeks successively, at least once in each week, specifying the time and place when and where the first meeting of the commissioners will be held; the town committee or council shall appoint a competent surveyor to assist said commissioners.

159. SEC. 3. That the said commissioners shall ascertain as far as practicable the names and estates of all the owners of lands and improvements required to be taken; they shall view and examine the lands and improvements required to be taken and shall make a just and equitable appraisal of the compensation and damages each owner will sustain by reason of such taking, and where the estates in any land or real estate are not known they shall appraise the compensation to be made for and damage done to the fee-simple; said commissioners shall ascertain and determine the whole cost of the laying out, opening, widening or extending of such street or highway, and shall determine what lands are specially benefited by the same, and shall assess such cost, as far as practicable, upon the lands so specially benefited; they shall assess each lot or parcel of land specially benefited thereby in proportion to the benefit received and no lot or parcel of land shall be assessed more than it is specially benefited, and in case the said cost shall exceed the aggregate amount of special benefits the excess shall be assessed upon and shall be borne by the town or township at large; the said commissioners shall make a map showing the lands and improvements required to be taken and each lot or parcel of land specially benefited; they shall under their hands make a report in writing of the facts ascertained and of the appraisements, estimates, determinations and assessments made by them, and shall present.

their report and map to the town committee or council at a stated meeting thereof, who shall direct the town clerk to publish for five weeks successively, at least once in each week, in a newspaper published in the county, and to post for ten days in five public places in the town or township notices setting forth that such report and map have been filed with him and specifying where and when they can be seen and examined and designating the time and place when and where the town committee or council will meet to consider and adjudicate upon all objections to such report, maps, awards, determinations and assessments that may be presented in writing, and all objections at such time and place presented in writing the town committee or 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 town committee or council, shall be filed with said clerk within ten days thereafter; the town committee or council may thereupon confirm said report, map, awards and assessments as filed by said commissioners or as corrected by them, and from and after the time of such confirmation the assessment shall constitute a lien upon the lands upon which it is imposed, collectible and enforceable as other assessments are in such town or township.

Committee or council to confirm map, reports, &c.

160. SEC. 4. That the town committee or town 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, and upon the passage of such resolution the fee-simple of said real estate to be taken shall be vested in the township or town; *provided*, that when the commissioners shall have reported the name or estates of the owners of any parcel as unknown, the said resolution shall direct the sum of the award on account of such plot to be paid to the owner or owners thereof when and as their interest may appear, and any such owner or person interested in said land may by suit 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.

Awards of commissioners, how paid.

161. SEC. 5. That whenever by the report and map of the 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, then if the assessment equals or exceeds the award no payment shall be made on account of the award; if the award exceeds the assessment only so much of the award as is in excess thereof shall be paid, and the resolution of the town committee or council ordering the awards to be paid shall be framed accordingly.

Proceedings where awards of damages and assessments for benefits are made against or in favor of the same person.

162. SEC. 6. That whenever any person who shall have presented objections aforesaid to an award, or shall be dissatisfied with the determination of the town committee or council thereupon, such person may commence an action upon contract against the town or township 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 town or township is situated), which action shall proceed in all things as if said town or township had upon taking the real estate required agreed in writing to pay therefor the value thereof, and the damage done by taking the same; and if in such action the plaintiff recover more than the amount of the award, he shall recover his taxable costs, and if he shall not recover more than the amount awarded, the defendant town or township shall recover its taxable costs, and shall be entitled to have them deducted from the amount recovered by the plaintiff, the amount of assessment against the plaintiff (if any) being also deducted therefrom; *provided, however*, that no such action shall be brought by any person who shall have accepted payment of the amount awarded, nor unless notice that such action will be brought be filed with the town clerk within three months after confirmation of the award, nor unless such action be commenced within two years after such confirmation.

Proceedings where any person is dissatisfied with his award.

An act authorizing municipalities governed by commissioners to pave and improve streets and avenues, and provide for the payment thereof.

P. L. 1892, p. 146.

Approved March 11, 1892.

Resolution for improving streets in municipalities governed by commissioners to be published.

163. SEC. 1. [Amended by Sec. 185, *post.*]

164. SEC. 2. That such resolution shall be published at least two weeks before the holding of such election, by setting up a copy thereof in at least ten public places in each ward of said municipality, and publishing said copy for two weeks, at least once a week in a newspaper published in said municipality, or if said municipality be not divided into wards, then by setting up a copy of such resolution in at least ten public places in said municipality, and publishing the same in manner aforesaid in a newspaper, if there be one published in said municipality.

Election concerning such improvement, when and how held.

165. SEC. 3. That the election shall be held at the time stated in said resolution, and that the election of officers elected at the last municipal election held in said municipality shall serve at said election; vacancies to be filled as they are in general municipal elections in said municipality; and the polling places shall be the polling places used at the said last election, unless said governing body shall in such resolution designate other polling places; the polls shall be open at the same hours as they do in all municipal elections held in said municipality, and said election shall be conducted in all respects in the same manner as all such municipal elections are conducted in such municipality.

Form of ballot.

166. SEC. 4. That all ballots cast at said election shall have the following words printed or written therein, viz.: "for improving _____ street" (insert name of street), or "against improving _____ street" (inserting name of street); each ballot may be in favor of, as well as against, improving certain streets or avenues, named thereon, and that the same may be printed on and voted with the official ballots cast at the municipal election when held on the same day.

No action if majority of ballots are against improvement.

167. SEC. 5. That if a majority of the ballots cast at such election are against improving the street or avenues named therein the said governing body shall proceed no further, and no other election concerning the streets or avenues named in such ballot shall be held within one year from the holding of said election.

Procedure if ballots are in favor of improvement.

168. SEC. 6. That if a majority of said ballots cast at said election are in favor of improving certain streets or avenues named therein, it shall be lawful for said governing body to proceed at once to advertise for at least two weeks, once in each week, in a newspaper published in said municipality, for bids for making such improvement, and that such work shall be done by written contract, by the lowest responsible bidder.

Cost of improvement to be filed.

169. SEC. 7. That an accurate account of the cost of such improvement shall be ascertained by said governing body as soon as possible after the completion thereof, and filed with the clerk of said municipality.

Commissioners to assess benefits.

170. SEC. 8. That when the improvement aforesaid shall have been completed, and the statement of the cost thereof filed with the clerk of said municipality as prescribed by the seventh section of this act, said governing body shall give notice of the appointment of said commissioners to estimate and assess the peculiar benefits conferred by such improvements upon the land and real estate fronting or bordering on the street or streets, or section thereof improved, of the time and place of which appointment, notice shall be given by two weeks' publication in two weekly newspapers printed and circulating therein, at which time and place, or at such other time and place as the governing body shall designate, said governing body shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of the municipality, to estimate and assess the benefits aforesaid; the said governing body 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.

Removal of commissioner.

Oath of commissioners.

171. SEC. 9. That said commissioners, before entering upon 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 assessments and estimates 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.

172. SEC. 10. That the said commissioners having thus qualified shall give notice, under direction of said governing body, of the time and place when and where they shall hear any persons in interest or who may present themselves to be heard, and at such time and place, and at such other times and places to which they may adjourn for that purpose, the said commissioners shall attend, and shall give a public hearing to those persons in interest who may desire to be heard; the said commissioners shall have the power to examine witnesses under oath, to be administered by any one of them, and to enter upon and view the lands and real estate fronting or bordering on the street or streets, or section thereof improved, and to adjourn from time to time in their discretion, or as directed by said governing body; they shall use diligent efforts to ascertain the names of the owners of the lands fronting or bordering on the street or streets or section thereof improved, and shall state the same in the report hereinafter mentioned; but the failure to ascertain the name of any owner, or to state the same correctly, or the omission of any such name from such report shall not invalidate said assessment, nor be a bar to the collection of the same.

173. SEC. 11. That after having given opportunity as aforesaid for a public hearing of the persons in interest, and having viewed the lands fronting or bordering on the street or streets, or section thereof improved as aforesaid, the said commissioners shall make a report within forty-five days after their appointment, in writing, of their estimates and assessments to the said governing body, accompanied by a survey and maps prepared under their direction, showing the several tracts or parcels of land and real estate fronting or bordering on said street or streets or section thereof; the said report shall state the cost of the whole work, which may be furnished to the commissioners by the clerk of the municipality from the report filed with him under the requirements of the seventh section of this act, and shall give the names, so far as ascertained, of the owners of the tracts or parcels of land or real estate fronting or bordering on said street or streets or sections thereof and the amount of the assessments to the owner or owners of each of said tracts or parcels of land and real estate for the said benefits, which several assessments shall be in proportion, as near as may be, to the peculiar benefits deemed to have been conferred by said improvements upon the respective tracts of land and real estate aforesaid; in no case shall any tract or parcel of land and real estate or any owner thereof be assessed beyond the amount of benefit actually derived from said improvement, nor shall the aggregate amount of assessments imposed upon the tracts or parcels of land and real estate fronting or bordering on said road or section thereof, exceed fifty per centum of the total cost of the improvement, nor shall the amount of assessment imposed upon any tract or parcel of land and real estate, or any owner thereof exceed twenty-five per centum of the whole cost of such improvement in front of such tract or parcel of land and real estate, and shall in no case exceed the special benefit derived from said improvement.

174. SEC. 12. That upon the coming in of any such report, signed by the said commissioners, or any two of them, said governing body 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 which may be alleged against the same, the governing body, by resolution, shall confirm the said report, or shall refer the same to the same commissioners for correction and revision, or to new commissioners to be appointed by the said governing body forthwith, to reconsider the subject-matter thereof, and the said commissioners to whom such report shall be referred by the governing body shall return the same corrected and revised, or a new report to be made by them in the premises, and the said governing body without unnecessary delay, and the same being so returned shall be confirmed or again referred by the said governing body in the manner aforesaid, as right and justice shall require, and

Hearing before
commissioners

Commissioners to
examine wit-
nesses.

Ascertain the
names of owners
of lands.

Failure to ascer-
tain owners not a
bar to collection
of assessment.

Commissioners
to report with
maps.

What report shall
state.

Limitation of
amount of
assessments.

Proceedings on
coming in of
report.

- Report to be final when confirmed.
And filed with the clerk.
- Limitation of time for allowing certiorari.
- Notice to be given of confirmation of report.
- Assessments a first lien on lands.
- Collector to collect assessment.
- Proceedings to collect delinquent assessments.
- Money collected to be applied to payment of notes.
License fees to be set apart as a special fund for payment of remainder of cost of improvements.
- Bonds may be issued.
- so from time to time until a report shall be made or returned in the premises which said governing body shall confirm ; such report, when so confirmed, shall be final and conclusive as well upon the said municipality as upon the owners of any land and real estate affected thereby ; said governing body shall thereupon cause said report to be filed with the clerk, and a certified copy thereof, and of the accompanying map and of the resolution confirming the report to be delivered to the collector of taxes of said municipality, in which the assessed lands may lie.
- 175. SEC. 13.** That no certiorari shall be allowed by any court to review any of the proceedings in relation to such improvement, nor to in any way affect any assessment made by such commissioners after a lapse of thirty days from the making of the resolution of the governing body confirming such assessment ; the governing body shall designate what notice, if any, shall be given, by publication or otherwise, of the confirmation of the report of said commissioners.
- 176. SEC. 14.** That the assessment made by the commissioners shall be and remain a lien upon the lands assessed from time to time, said report shall have been delivered to the collector of taxes of said municipality, in the same manner and to the same extent that taxes are liens upon the lots or tracts of land in said municipality.
- 177. SEC. 15.** That the collector of said municipality shall, as soon as said report is delivered to him, proceed to collect the assessment named in said report, and shall notice by advertisement in two newspapers printed and published in the municipality for two weeks at least, once in each week successively, stating in general terms the lands comprised in such assessment and requiring the owners of lots and tracts of lands assessed in such report to pay the amount to him within six months from the first publication or giving of such notice.
- 178. SEC. 16.** That if any assessment upon any lot or tract of land made under the provisions of this act shall not be paid within six months after the time appointed in said notice, the governing body may, as they shall deem proper, either bring an action on the case in any court of competent jurisdiction, in the corporate name of such municipality, against the owner or owners of such lot or tract of land, for so much money laid out and expended by them for the use of such owner or owners, and declare generally and give special matter in evidence, and either party, from any judgment rendered therein may have the same remedy by appeal or otherwise as if said parties were private individuals, or may proceed to collect the said assessment by sale of lots or tracts of land whereon such assessment has been imposed, or may be a lien in the same manner and to the same extent as lands are now sold for unpaid taxes in said municipality, and the purchaser or purchasers at any such sale or sales, and his legal representative, shall hold and enjoy such lots or tracts of land, with the rents, issues and profits thereof, in the same manner and by the same title and tenure as purchasers at the sales of lots or tracts of land for unpaid taxes can now hold and enjoy the same in said municipality.
- 179. SEC. 17.** That the money so collected shall be applied to the payment of the notes hereinafter mentioned.
- 180. SEC. 18.** That the remaining part or portion of the cost of such improvement or improvements shall be paid from the moneys now or that may hereafter be received by or for the use of such municipality, from all license fees (except clerk and court fees), from any and all licenses to sell spirituous, vinous, malt and brewed liquors, granted by the court of common pleas of the different counties of this state, or other licensing board or body, and paid over to the body or person entitled to the legal custody of the funds of any such municipality, which sums of money so received or hereafter received from all such license fees shall be by said governing body set apart as a special fund for such purpose ; or the said governing body of said municipality may, if so authorized according to the requirements of section one hereof, to issue the bonds of said municipality, pledging the faith, credit and property thereof, for the payment with interest, at the time to be specified by them in said bonds, of said remaining part or portion of such

improvement; said bonds shall be of the denomination of one thousand dollars each, bearing interest at a rate not exceeding five per centum per annum, which shall be paid semi-annually, and shall not be disposed of or sold by said governing body for less than their par value; all license moneys received by said municipality shall be applied to the payment of the interest to accrue thereon, and if said fees shall be more than sufficient to pay said interest, then the surplus shall be set aside by said governing body as a sinking fund with which to pay the principal of said bonds.

Denomination and interest of bonds.

Interest to be paid by license moneys.

181. SEC. 19. That the governing body of any municipality may issue notes of said municipality in anticipation of the assessment and collection of the part of the costs of such improvement or improvements upon the property adjoining and abutting on such street or streets so to be paved, macadamized or otherwise improved, and in anticipation of the receipt of license fees as provided for by section eighteen of this act, sufficient to pay for such improvement.

Notes may be issued.

182. SEC. 20. That no work on any such proposed improvement or improvements shall be commenced until the governing body of such municipality shall have deposited in such special fund as provided for by section eighteen of this act twenty-five per centum of the estimated cost thereof; *provided, however,* this section shall not be operative in any case where bonds are issued as mentioned in section eighteen.

Twenty-five per cent. of estimated cost to be deposited in special fund before work shall be commenced.

183. SEC. 21. That the powers herein conferred shall be construed as being in addition to, and not in lieu of, any powers to pave, macadamize or otherwise improve streets or avenues, or to issue bonds contained in the provisions of any charter or act creating any municipality.

Powers conferred to be in addition to charter powers.

184. SEC. 22. That all acts and parts of acts, general or special, public or private, inconsistent with or repugnant to the provisions of this act, be and the same are hereby repealed.

Repealer.

Amendatory act.

Approved March 7, 1893.

P. L. 1893, p. 109.

185. SEC. 1. That section one of said act [see Sec. 163, *ante*] be and the same hereby is amended so as to read as follows:

[That whenever the governing body of any municipality, by whatever name the same may be known, and however created, governed by commissioners, shall be desirous of causing any street or streets, avenue or avenues, or portions thereof, lying within the limits of such municipality to be paved, macadamized or otherwise improved, it shall be lawful for such body, after the consent of a majority of the owners of real estate on the street or streets to be improved has been obtained in favor of such improvement, by a majority vote of all the members thereof, at any regular meeting thereof, to call an election of such voters of such municipality, by a resolution of such body, stating the time of holding such election; that the object is to obtain the consent of voters to the paving, macadamizing or improving of a street or streets, avenue or avenues (which shall be named in the resolution), or some portion thereof (which shall be described in the resolution), and to the assessment and collection of a portion of the cost of such improvement upon all the property adjoining and abutting on such improvement, and also the amount of money proposed to be expended for such improvement; and if it is proposed to issue the bonds mentioned in section eighteen of the act hereby amended, said resolution shall also state that it is proposed to issue bonds of said municipality, pledging the faith, credit and property thereof, for the payment, with interest, by the said municipality of the proportion (not exceeding three-fifths) of the cost of such improvement not assessed upon the property fronting thereon.]

Governing body of municipality governed by commissioners, may pass resolution providing for an election to decide whether street improvements shall be made.

Statement of contents of such resolution.

186. SEC. 2. That any and all contracts executed by any such municipality for paving, macadamizing or otherwise improving streets or avenues, or parts of them, are hereby legalized and confirmed, notwithstanding any informality in the proceedings.

All contracts hereby legalized.

187. SEC. 3. That no suit or proceedings in any court of record shall be defeated or affected by this amendment.

Amendment not to affect proceedings.

An act authorizing towns and townships which are adjacent to a city in the same county to lay out, open and construct a road or street connecting with a road or street in such adjoining city.

P. L. 1892, p. 280.

Approved March 24, 1892.

Towns or townships adjacent to a city in the same county allowed to lay out, open and construct roads or streets connecting with such city.

188. SEC. 1. That where any town or township of this state is or may be situated adjacent to a city in the same county, it shall be lawful for, and full power and authority is hereby vested in, the council or town committee of any such town or township in the manner hereinafter provided to lay out, open and construct a road or street and such branches thereof as may be deemed advisable, in and through such town or township, or some portion thereof, to and into the territory of such adjoining city, so as to make a safe and convenient connection of such road or street with a road or street in such adjoining city; *provided, however,* that it shall not be lawful to change or disturb the grade or alter the lines of any road or street in any such adjoining city without the consent of the proper municipal authorities thereof.

Proviso.

Council or town committee to adopt resolution by a two-thirds vote.

189. SEC. 2. That it shall be lawful for the council or town committee of any such town or township at any time, by the votes of two-thirds of the members thereof, to pass or adopt a resolution setting forth that in their judgment the interests of such town or township require additional or better facilities for reaching such adjoining city and that it is advisable to lay out, open and construct a road or street to connect with a road or street in such adjoining city, and at any time after the passage or adoption of such resolution the said council or town committee may by resolution, passed or adopted in the usual manner, appoint three commissioners who shall be residents and freeholders of such town or township and who shall perform and discharge the duties set forth and mentioned in the next succeeding section of this act; said council or town committee shall also appoint a competent surveyor to assist said commissioners; in case of the death, resignation, neglect or refusal to serve or removal from the town or township of or by any of the commissioners so appointed, the vacancy or vacancies so created may be filled by appointment in like manner by the council or town committee; each of said commissioners, before entering upon the discharge of the duties imposed upon him by this act, shall make and file with the clerk of such town or township an oath or affirmation that he will faithfully and impartially and to the best of his ability and understanding perform the duties imposed upon him by this act.

Commissioners.

Surveyor.

Vacancies.

Oath of commissioners.

Survey and map.

190. SEC. 3. That it shall be the duty of said commissioners to cause surveys to be made, and to determine, locate and lay out a practicable route for such road or street, and such branches thereof as they may deem advisable to lay out, and the lines, termini, width and grades thereof, and shall show the same upon a map to be made by them for that purpose; they shall consider and determine what lands and improvements will be required to be taken therefor, and shall exhibit the same on said map or on a separate map; they shall estimate, ascertain and determine the probable total cost of constructing such road or street and branches thereof, and to that end shall estimate the probable costs and damages which the taking of lands and improvements therefor will require to be paid; the probable cost of grading, flagging, curbing, paving, macadamizing and draining the same, and the probable cost of bridges, trestles and other details of the improvement, and they shall also estimate all other costs and expenses which in their judgment will be necessarily incurred in the construction of such road or street and branches thereof; after estimating and determining as aforesaid the probable total cost of construction, said commissioners shall ascertain and determine what lands in such town or township will be specially benefited by the construction of such road or street and branches thereof, and shall make a map showing such lands, and each separate lot or parcel of land which will be so specially benefited, on which map each lot or parcel shall be designated by a letter or number; they shall then make an assessment of the total cost of construction, estimated as aforesaid, as follows: they shall assess upon the town or township at large an amount

Estimate of costs and damages.

Cost of grading, flagging, &c.

Other costs and expenses.

Map of lands benefited.

Assessment of total costs.

Manner of assessment.

equal to thirty per centum of such estimated total cost, and the residue of such estimated total cost they shall assess, as far as practicable, upon the lots and parcels of land in such town or township which will be specially benefited in proportion to the benefit which each lot or parcel will receive, and no lot or parcel shall be assessed more than it will be so specially benefited, and if the aggregate amount of such probable assessable special benefits shall be less than the said residue of the estimated total cost of construction, the excess of such cost shall be assessed upon the town or township at large; they shall make a schedule which shall accompany their said map, in which they shall set forth the letter or number of each lot or parcel of land assessed, the names of the owners thereof so far as the same can be ascertained by them, and the amount of probable assessment for special benefits thereon; the said commissioners shall make report in writing to the council or township committee of the facts and matters ascertained by them, and of the determinations, estimates, appraisements and assessments made by them, which report shall be accompanied by the surveys, maps, plans and schedules by them made.

Schedule of lots.

Report of commissioners.

191. SEC. 4. That upon receiving such report the town council or committee shall file the same with the clerk of the town or township, and shall, by resolution, appoint the time and place when and where they will meet to consider the same and all objections in writing that may be presented thereto, which time shall not be less than six weeks from the time of the adoption of such resolution; and it shall be the duty of the town clerk to publish in at least two newspapers published in the county in which such town or township is situated, for at least three weeks successively next preceding the time designated in said resolution, at least once in each week, notices setting forth that the report, maps, schedules, assessments, determinations and estimates of the commissioners have been filed with him, and specifying the time when and the place where the town council or committee will meet to consider the same, and all objections thereto that may be presented in writing; such notices shall also designate the limits in such town or township within which the lots or parcels of land assessed are included; said town clerk shall also post printed copies of such notices in at least fifty conspicuous places in such town or township, at least fifteen days prior to the time designated in the resolution aforesaid; the owner of any lands shown on the assessment map and schedule of the said commissioners shall have the right to file with the town clerk objections in writing to the construction of such road or street, and branches thereof, at or before the time appointed in and by the resolution aforesaid; at the time and place appointed by such resolution, the council or town committee shall meet, and the town clerk shall lay before them all objections in writing which shall have been filed with him, and thereupon the council or township committee shall proceed to consider the report of the said commissioners and the objections thereto; and at any time thereafter the council or town committee may, by the votes of a majority of the members thereof, pass or adopt a resolution confirming the report of said commissioners; *provided, however,* that no resolution confirming such report shall be passed or adopted and no road or street shall be built or constructed if it appear that the owners of lands assessed for more than one-half of the aggregate assessable special benefits (excluding amounts assessed upon the town or township) have objected thereto.

Report of commissioners to be filed.

Proceedings thereafter.

To designate limits.

Notices to be posted.

Owners may file objections.

Objections to be laid before council or town meeting.

Council may confirm report.

Proviso.

192. SEC. 5. That at any time after the adoption of the resolution confirming the report of said commissioners as aforesaid, the said council or town committee may acquire by purchase and may accept donations and dedications of lands, improvements, right of way and other easements required in the construction of such road or street and branches thereof, whether the same be within such town or township or in such adjoining city, and in case said council or town committee shall not be able to acquire by agreement with or purchase from the owner or owners thereof, the lands, improvements, right of way and other easements necessary for such road or street and branches thereof, or when by reason of absence or legal incapacity of such owner or owners, or any of them, such agreement

Proceedings for acquiring lands.

MUNICIPAL CORPORATIONS.

or purchase cannot be made, a particular description of the lands, improvements, right of way and other easements required shall be given in writing by said council or town committee, and also the name or names of the occupants if any, and of the owners if known, and their residences if the same can be ascertained, to one of the justices of the supreme court of this state, who shall cause said council or town committee 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 judicious disinterested and impartial freeholders, residents in the county in which such town or township is situated, commissioners to examine and appraise the said lands, improvements, right of way and easements 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 examine the lands, improvements, right of way and easements required to be taken and to make a just and equitable assessment or appraisement of the value of the same and an assessment of the damages to be paid by the said town or township; they shall make report in writing under their hands and seals, or under the hands and seals of any two of them, and shall file the same together with the aforesaid description of the lands, improvements, right of way and easements and the appointment and oaths or affirmations aforesaid, in the clerk's office of the county in which town or township is situated, to remain of record therein, and thereupon and on payment or tender of payment of the amount awarded as hereinafter provided, the said town or township is hereby empowered to enter upon and take possession of the said lands, improvements, right of way and easements for the purposes aforesaid, and the said report or a copy thereof certified by the clerk of the said county and proof of payment and tender of the amount awarded shall at all times be considered as plenary evidence of the right of such town or township to have, hold, use, occupy, possess and enjoy the said lands, improvements, right of way and easements, whether the same be situated in such town or township or in such adjoining city, and the said justice of the supreme court shall, on application of either party and on reasonable notice to the other, tax and allow such costs, fees and expenses to the justices of the supreme court, commissioners, clerks and other persons performing any of the duties prescribed in this section as he may think equitable and right, which shall be paid by such town or township; *provided* that should any such town or township, or the owner or owners of any of the lands, improvements, right of way or easements, feel aggrieved by the decision of the commissioners aforesaid, it, he or they may appeal to the next circuit court in the county where such town or township is situate.

193. SEC. 6. That every appeal from the decision of the commissioners appointed under the last 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 such town or township is situate, 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 lands, improvements, right of way and easements taken and the damages sustained, and if they shall find a greater

Appointment of
commissioners to
appraise lands.

Report of com-
missioners of
appraisement.

Proviso.

Appeal to circuit
court.

Trial by jury.

Jury to assess
value.

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 town or township 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 town or township 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 town or township from taking the said lands, improvements, right of way and easements upon filing the aforesaid report; *provided*, that in no case shall said town or township enter upon or take possession of any lands, improvements, right of way or easements 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 lands, improvements, right of way and easements or damages, in case the report of said 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 be no appeal, and in case of appeal the amount found by the jury, shall refuse upon tender thereof being made to receive the same, 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 said county 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 town or township shall be empowered to enter upon and take possession of said lands, improvements, right of way and easements, whether the same be within the limits of such town or township or within the limits of such adjoining city.

When costs to be paid by town or township.

Or by applicants.

Proviso.

Proviso.

194. SEC. 7. That in order to raise the moneys necessary to pay for lands, improvements, right of way or easements acquired by purchase or condemnation as aforesaid, and the costs and expenses attending the same, it shall be lawful for the council or township committee of such town or township to borrow money by the issue of bonds in the corporate name of such town or township, to an amount not exceeding the cost of acquiring such lands, improvements, right of way and easements, costs and expenses, which bonds shall bear interest at not exceeding the rate of six per centum per annum, and shall run not exceeding the period of ten years, and shall be sold for not less than their par value.

Costs of improvement may be provided by the issue of bonds.

195. SEC. 8. That after acquiring the necessary lands, improvements, right of way and easements as aforesaid, the council or town committee of such town or township shall have full power and authority to enter into contracts with responsible persons as hereinafter provided for doing the work and furnishing the materials necessary in the construction of such road or street, and the branches thereof, which contracts may be for doing the whole or part of said work; they shall advertise for proposals for at least two weeks successively, once in each week, in at least two of the newspapers published in the county in which such town or township is situated, and then contracts shall be made with the lowest responsible bidder or bidders who will comply with the requirements of such council or town committee, and give ample security for the performance of the contracts; *provided, however*, that such council or town committee may reject all bids, if they deem it for the interest of the town or township so to do, in which case they shall re-advertise in like manner for proposals; the contracts so entered into may include all grading, filling in, excavating, flagging, curbing, paving or macadamizing, retaining walls, piling, trestles, bridges, and all other work necessary to construct such road or street and branches thereof, in the manner set forth in the report, plans and maps of the commissioners appointed under the second section of this act; the council or town com-

Contracts for making the improvements may be entered into.

Proposals.

Proviso.

mittee of such town or township shall also appoint a competent civil engineer to supervise the construction of such work.

Payments on account made by improvement certificates.

196. SEC. 9. That when and as often as the engineer in charge of such work shall certify that a certain quantity of work and materials have been done and furnished thereon, the council or town committee shall issue or deliver to the contractor an improvement certificate for eighty per centum of the value thereof according to the contract prices therefor, which certificate shall bear interest at the rate of six per centum per annum and shall be payable at any time within five years, on ninety days' notice when all interest thereon shall cease, and when the contract is fully completed and the work accepted by the council or town committee of such town or township, a like certificate for three-fourths of the amount withheld shall be delivered to the contractor, and at the expiration of three months thereafter a like certificate for the balance due shall be delivered to the contractor, unless errors or defects in the work shall have appeared, in which case it shall be withheld until such errors or defects are rectified to the satisfaction of the council or town committee.

Inspector of work may be appointed.

197. SEC. 10. That the council or town committee may appoint an inspector over the work and materials and may fix his compensation.

Proceedings for assessing benefits.

198. SEC. 11. That after the completion of such work the council or town committee of such town or township shall, by resolution appoint three disinterested commissioners, who shall be freeholders and residents of such town or township, and who, after making and filing with the town clerk an oath or affirmation that they will faithfully and impartially, and to the best of their ability and understanding, perform the duties required of them by this act, shall proceed to consider and determine what lands lying within the assessment area established by the commissioners appointed under the second section of this act are specially benefited by the laying out, opening and construction of such road or street and branches thereof; they shall make a map showing all the lands and each separate lot or parcel of land so specially benefited, and shall designate each lot or parcel thereon by a letter or number; they shall ascertain and determine the total actual cost of the laying out, opening and construction of such road or street and branches thereof, and shall assess upon the town or township at large an amount equal to thirty per centum of such total cost; the residue of such total cost they shall assess, as far as practicable, upon the lands within such assessment area found by them to be specially benefited; they shall assess each lot and parcel of land in proportion to the benefit received, and shall not assess any lot or parcel of land more than it is specially benefited; in case the aggregate amount of assessable special benefits shall be less than the residue of such total cost, they shall assess the excess upon the town or township at large in addition to the thirty per centum of such total cost above provided for; the said commissioners shall make a schedule, which shall accompany their said map, setting forth the letter or number of each lot or parcel of land assessed, the names of the owners thereof so far as the same can be ascertained, and the amount assessed thereon for special benefits; they shall present a report in writing with their map and schedule to the council or town committee of such town or township, who shall file the same with the clerk of the town or township, and shall, by resolution, appoint a time and place when and where they will meet to consider objections in writing made thereto, which time shall not be less than twenty days thereafter; it shall be the duty of the town clerk, upon the adoption of such resolution, to publish for at least two weeks successively, at least once in each week, in at least two newspapers published in the county in which such town or township may be situated, a notice setting forth that such report, map and schedule have been filed in his office, and describing the limits within which the lands assessed lie, and specifying the time and place appointed by the council or town committee for considering objections in writing thereto, and said town clerk shall also post printed copies of such notice in at least five public places of such town or township at least ten days prior to the time appointed as aforesaid for considering objections; any owner of or person interested in lands assessed shall have the

right to file objections in writing to the assessment thereon with the clerk of said town or township at or before the said time appointed for considering objections; at the time and place so appointed the council or township committee shall meet, and shall consider and adjudicate upon all objections in writing to said assessment that may be presented; in case they shall sustain any of the objections thereto, they shall have power to make such corrections of the assessment as to them shall seem just and equitable; after considering and adjudicating upon all objections presented, the said council or town committee may confirm such assessment as originally presented, or as corrected by them, and from and after the time of such confirmation the assessment shall be a first and paramount lien on all the lands assessed, and if not paid within sixty days thereafter shall bear interest at such rate not exceeding ten per centum nor less than seven per centum per annum, as the said council or town committee may prescribe; and in case any assessment shall remain unpaid and in arrears for the period of one year after the time of such confirmation, the said council or town committee may cause the lands upon which such assessment remains in arrear and unpaid to be sold, in the same way and manner and with the same effect and under the same rules and for the same term as are or may be prescribed by law for the sale of lands for unpaid taxes therein.

Upon confirmation, assessments shall be liens.

Lands to be sold if assessments remain unpaid for one year.

199. SEC. 12. That no writ of certiorari or other writ or process shall be allowed or issued out of or by any court of this state to review the proceedings for laying out and constructing said road or street after the contract therefor shall have been awarded, and no such writ or process shall be allowed to review any assessment of the cost of laying out, opening and constructing such road or street, after thirty days shall have elapsed from the time of confirmation of such assessment.

Limitation of time for allowing certiorari.

200. SEC. 13. That all moneys received for assessments made under this act shall be held and appropriated for the payment and redemption of bonds and improvement certificates issued under this act, and of such bonds issued to redeem maturing bonds as may be issued under this act, and shall be used for no other purpose whatsoever.

Redemption of bonds and improvement certificates, how provided for.

201. SEC. 14. That the council or town committee of said town or township shall have the power to issue bonds of such town or township to raise moneys to pay and redeem any improvement certificate issued under this act, which bonds shall bear interest at not exceeding the rate of six per centum per annum and shall not run exceeding ten years, and shall not be sold for less than their par value.

Power to issue bonds for redemption of improvement certificates.

202. SEC. 15. That it shall not be necessary for the council or town committee of such town or township to obtain the consent of the municipal authorities of any adjoining city to extend the road or street herein authorized to be constructed over the territory of such city and to connect with a road or street therein, except as provided in the first section of this act.

Not necessary to obtain consent of adjacent city to extend road or street.

An act providing for changing, altering and relocating the lines, boundaries and location of unopened streets and avenues, and authorizing the acceptance of dedications of streets and avenues in certain cases, in towns, boroughs and townships having an official map, or map or plan establishing the boundaries of streets and avenues.

Approved March 28, 1892.

P. L. 1892, p. 318.

203. SEC. 1. That where in any town, borough or township of this state power and authority is vested in the council or township committee to lay out and open streets or avenues in conformity to any official map thereof, or map or plan establishing the boundaries of streets and avenues therein, it shall be lawful for the council or township committee of any such town, borough or township, and they are hereby authorized and empowered, by ordinance adopted by the votes of two-thirds of all the members thereof, to amend any such map or plan by changing, altering and relocating the lines, boundaries and location of any unopened street or avenue, or section of street or avenue shown or designated thereon.

Certain towns, &c., having power to lay out streets in conformity to map, may amend such map.

Ordinance for such purpose not to be passed except on petition of owners.

Objectors to be heard.

Changes to be delineated on map and streets opened if ordinance be passed.

Such towns, &c., may accept new streets dedicated by landowners.

Repealer.

204. SEC. 2. That no ordinance shall be passed or adopted unless a petition for the same signed by the owners of at least one-half the land fronting on the street or avenue or section thereof proposed to be changed or altered, setting forth particularly the changes and alterations of lines, boundaries and location desired to be made be presented to the council or township committee; upon receiving such petition the council or township committee may upon consideration thereof dismiss the same or may order the same to be published for two weeks successively, at least once in each week, in two newspapers published in the county and circulating in the town, borough or township, together with a notice designating the time and place (to be fixed by the council or township committee), when and where the council or township committee will meet to further consider and hear all objections that may be made to such petition, and at the time and place mentioned in such notice, the council or township committee shall meet and shall hear all persons who shall desire to be heard in favor of or against such petition; and at any time thereafter the said council or township committee may either dismiss said petition or pass the ordinance prayed for therein; upon the passage of any such ordinance the changes and alterations in the lines, boundaries and location of any street or avenue or section of street or avenue therein made or authorized shall be delineated on said official map, map or plan, and when such street or avenue or section thereof shall be thereafter laid out and opened, it shall conform to the changes and alterations made in and by such ordinance.

205. SEC. 3. That where in any such town, borough or township as aforesaid the owner or owners of any tract or tracts of land shall have laid out the same into blocks, streets and avenues which do not conform to or correspond with the blocks, streets and avenues laid down on any such official map, map or plan, and have dedicated or shall hereafter dedicate such streets and avenues to public use, it shall be lawful for the council or township committee thereof by resolution adopted by the votes of a majority of all the members, to accept such dedication, and thereafter the streets and avenues so laid out, dedicated and accepted, shall be legal streets and avenues, and may be graded, flagged, paved, sewered and otherwise improved or repaired in manner prescribed by law for the improving and repairing of streets and avenues in such town or townships.

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

An act concerning villages and townships.

P. L. 1892, p. 355.

Approved March 29, 1892.

Governing bodies of villages and townships may accept dedicated streets.

Proviso.

207. SEC. 1. That the trustees or other governing body of any village or township in this state, whether incorporated under general or special acts of the legislature, shall have full power to accept and recognize as a public street of the said village or township any street or road of lawful width which may have been or which shall be opened by the owners of the land through which it runs, and shall have been by them dedicated to public use as a public highway; *provided*, that the owner or owners of the property fronting upon such street or highway, and owning the land over which the said highway is laid shall deliver a declaration of such dedication, together with a map or survey of such street or road to the trustees or other governing body of the said village or township in which the said lands may lie.

Acceptance to be recorded in office of county clerk.

208. SEC. 2. That upon the acceptance thereof by the said governing body of the said village or township, such acceptance shall be indorsed thereon and the same shall then be put on record as a public highway in the office of the county clerk where such lands may lie, and shall thenceforth be a public highway to all intents and purposes.

Copies of papers and surveys to be made in books.

209. SEC. 3. That the trustees or other governing body of such village or township shall cause a copy of all of the papers and surveys or maps to be made in books provided for that purpose.

210. SEC. 4. That no street or highway shall be accepted as aforesaid until the parties applying to have the same accepted shall have paid the said village or township the sum of ten dollars to cover the expense of recording the same in the office of the county clerk in the county in which said village or township is situated, and also for the recording of the same in the books of the village or township provided for that purpose.

Expense of recording, how provided for.

211. SEC. 5. 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 provide for the widening and constructing of roads or streets lying along or adjacent to the boundary lines of municipal corporations.

Approved March 9, 1893.

P. L. 1893, p. 136.

212. SEC. 1. That in any incorporated town or township in this state in which there exists a public road or street having a width of thirty (30) feet or less and lying wholly within the corporate boundary of such town or township, it shall be lawful for the council or other governing body of said town or township, upon the presentation of a petition signed by property-owners representing one-third of the total frontage on said road or street, to cause such road or street to be widened and improved as hereinafter provided for.

Certain roads and streets in towns and townships may be widened and improved.

213. SEC. 2. That upon the receipt and adoption of the said petition by the council or other governing body of the said town or township, it shall be lawful to cause to be made surveys, maps, profiles and grades by a competent civil engineer, sufficient to establish new lines for the widening of said road or street, and upon the adoption of said maps, profiles and grades the said council or other governing body shall pass an ordinance defining the limit of the said improvement, which shall be advertised for two weeks in at least one newspaper circulating in said town or township and also in any adjacent or neighboring municipalities affected by the said improvement.

Surveys, maps, &c., to be made, ordinance adopted, &c.

214. SEC. 3. That it shall be lawful for the circuit court of the county in which any lands or real estate which may be benefited by said improvement are situated, on application in writing made on behalf of said council or other governing body of said town or township, to appoint three disinterested commissioners, who shall make an estimate and assessment of the damages any owner or owners will sustain as well as for the taking of his, her or their lands or real estate with the appurtenances, as for the injury to the owner or owners by reason of the intended improvement; the said commissioners shall be sworn to make just and impartial awards and assessments of the costs, and shall present without delay to the said court a report in writing and accompanied by a map of such award and assessment, which shall be sufficient if signed by a majority of said commissioners; and that the said commissioners in making assessments for benefits for such widening shall take into careful consideration and shall assess all the lands benefited by the said improvement, both in the town or township through which the said road or street may be constructed, and also all lands lying in neighboring or adjacent municipalities; but no assessment shall be made against any land greater than the benefit received from such widening, and that said assessment for benefits so assessed shall be a lien upon the lots or plots or parcels of land lying in the said adjacent cities, towns or townships respectively assessed; that the said circuit court shall direct notice to be given by advertising in some newspaper circulating in said county for at least ten days, stating the time and place at which said court shall proceed to consider said report and any objections that may be made in writing thereto; and shall have power to consider the said report and objections thereto in a summary manner, and to revise and to confirm said report and accompanying map with or without alterations; said report, when confirmed by the court, and duly certified by the county clerk shall at all times be plenary evidence of the right of the said council or other governing body of said town or township to enter upon, take and use the said land and real estate with

On application, circuit court may appoint commissioners to make assessment of damages of land-owners.

Commissioners shall be sworn and present a report in writing accompanied by a map of such award and assessment.

No assessment shall be greater than benefit received.

Notice to be given of time and place to consider objections.

Evidence of right to take land.

the appurtenances for the purpose of such road or street, and said council or other governing body of said town or township first sending to the owner or owners thereof, if resident of this state, the amount so awarded to them, and that if any owner is not a resident of this state or on due inquiry cannot be found therein, 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 voucher or receipt therefor when tendered, an affidavit shall be made of the facts and filed in the office of the county clerk, and the amount of the award to any such owner shall be deposited in said circuit court before said council or other governing body of said town or township shall have the right to take or use said lands and real estate for the purposes herein stipulated; the court shall settle and determine the compensation to be paid said commissioners and the costs and expenses of the application and report, which shall be paid by the council or other governing body of said town or township on behalf of which the application is made; and in case any commissioner shall die or refuse to act as such, the court shall immediately make appointment of a proper person to fill any vacancy so created.

Compensation to be paid said commissioners.

Duties of town clerks and city or town collectors.

215. Sec. 4. That upon the confirmation of the assessment as above provided for, the clerk of the town or township through which the said road or street lies shall file with each of the clerks of the adjacent cities, towns or townships whose lands are included in the aforesaid assessment a copy of the report of the said commissioners; that it shall be the duty of each of the collectors in said adjacent cities, towns or townships whose lands are assessed to enter the said assessment, so far as it applies to his municipality, into a book to be kept in his office for the purpose, and he shall give notice for two weeks in some newspaper circulating in his municipality, that the said assessment report is on file and requiring payment of the several sums assessed against any owner of lands and real estate for such improvement within thirty days from and after the confirmation of said report by the circuit court of the said county, and in case said assessment shall remain unpaid at the expiration of thirty days from and after the first publication of said notice, the said assessment shall draw interest thereupon from and after that time at the rate of one per centum per month; and the governing body of said adjacent city, town or township affected by said assessment shall have the same powers and rights to enforce the payments of said assessments as they have to enforce the collection of taxes or assessments by like proceedings.

Collection of delinquent assessments.

Moneys collected by adjacent cities and towns to be a separate fund.

216. Sec. 5. That all moneys collected on account of the aforesaid assessment by the respective adjacent cities, towns or townships whose lands are so assessed shall be kept in a separate fund, which fund shall be applied to reimbursing the town through which the road or street lies for such expenses as said town may have incurred in the carrying out of said improvements; and it shall be the duties of the governing bodies of the said adjacent cities, towns or townships to pay over to the governing bodies of the aforesaid town or townships in which the said road lies, on demand, such sums of money as may have been collected whenever demand is made therefor.

Governing body may borrow money temporarily.

217. Sec. 6. That in order to meet the necessary cost of said widening of such road or street and the proceeds relating thereto as mentioned in this act, the council or other governing body of the town or township through which said road or street lies may borrow the necessary money therefor temporarily upon the promissory notes of such corporation or may issue temporary improvement certificates in such form as said council or other governing body may prescribe; said notes and certificates shall bear interest at a rate not exceeding six per centum per annum, and shall be payable at the expiration of not more than two years from the date of issue, and all receipts from assessments made against property benefited as herein above provided shall be paid to the treasurer of said town or township, and shall be applied to the payment of such temporary indebtedness incurred by the said town or township therefor.

218. SEC. 7. That upon the confirmation of the assessment for the widening, as provided for in section three of this act, the said council or other governing body of said town or township may authorize, upon the receipt of a petition signed by property-owners representing one-half the frontage on said road or street, asking for the improvement, by ordinance or ordinances passed and adopted by such council or other governing body, the construction of said road or street upon the lines, profiles and grades as described and laid down in the plans adopted as provided for in section two of the act; and shall employ a competent civil engineer to prepare specifications and details, and to supervise and direct such improvement.

When governing body may authorize improvement to be made.

219. SEC. 8. That the costs and expenses incurred for making any improvement or performing any work under and by virtue of the provisions of section seven of this act shall be assessed upon the lands and real estate specially benefited, in proportion to the benefits received thereby, but not exceeding the amount of such benefits; when such work is completed, the said common council or other governing body of such town or township shall apply to the circuit court of the county in which such township is situated; and on application, in writing, made by or on behalf of the council of said town or township or other governing body, and after notice of the time and place of making such application, published at least ten days previously in some newspaper circulating in said county, the circuit court shall appoint three disinterested commissioners, who shall make an estimate and assessment of the benefits that any lands and real estate may specially receive by the making of such improvements or public works; and if any of said commissioners die or refuse to act, the said court shall immediately make appointment of a proper person to fill any vacancy so created; the said commissioners shall be sworn to make a just and impartial estimate and assessment, and they shall assess upon the several lots or parcels of land benefited by such improvement a sum in proportion to the benefit received by each of said lots or parcels of lands, and no lot or parcel of land shall be assessed more than it is benefited; and the said commissioners shall, in making the assessment for such improvement, take into careful consideration, and shall assess all lands benefited by the said improvement, both in the town or township through which the said road or street may be constructed, and also all lands lying in neighboring or adjacent municipalities, and that said assessment for benefits so assessed shall be a lien upon the lots or plots or parcels of land lying in the said adjacent cities, towns or townships respectively assessed; that the said circuit court shall direct notice to be given, by advertisement in some newspaper circulating in said county, for at least ten days, stating the time and place at which said court shall proceed to consider said report and any objections that may be made in writing thereto, and shall have the power to consider the said report and objections thereto in a summary manner, and to revise and to confirm said report and accompanying map, with or without alterations; the court shall settle and determine the compensation to be paid said commissioners, and the cost and expenses of the application and report, which shall be paid by the council or other governing body of said town or township on behalf of which the application is made.

Expenses incurred shall be assessed upon lands specially benefited.

Appointment of commissioners.

Commissioners shall be sworn.

Duties of commissioners.

Notice to be given of time and place to consider report and any objections.

Court shall determine compensation of commissioners and cost and expenses.

Clerk shall file report of assessment when confirmed.

Duties of collectors.

220. SEC. 9. That upon the confirmation of the assessment as above provided for by section eight of this act, the clerk of the town or township through which the said road or street lies shall file with each of the clerks of the adjacent cities, towns or townships whose lands are included in the aforesaid assessment, a copy of the report of the said commissioners; that it shall be the duty of each of the collectors of said adjacent cities, towns or townships whose lands are assessed to enter the said assessment so far as it applies to his municipality, into a book to be kept in his office for the purpose, and he shall give notice for two weeks in some newspaper circulating in his municipality, that the said assessment report is on file and requiring payment of the several sums assessed against any owner of lands and real estate for such improvement, within thirty days from and after the confirmation of said report by the circuit court of the said county, and in case said assessment shall remain unpaid at the expiration of the

Unpaid assessments shall draw interest.

Governing body shall have power to enforce collection.

Moneys collected kept in a separate fund and paid by governing bodies on demand.

Governing body may borrow money on notes or certificates.

Notes and certificates bear interest not exceeding six per cent.

Receipts from assessments to be paid to town treasurer.

Governing bodies may issue bonds, to run ten years, six per cent. interest.

Bonds not sold less than par value.

Proviso.

Repealer.

thirty days from and after the first publication of said notice, the said assessment shall draw interest thereupon from and after that time at a rate of one per centum per month; and the governing body of said adjacent cities, town or township affected by said assessment, shall have the same powers and rights to enforce the payments of said assessment as they have to enforce the collection of taxes or assessments by like proceedings.

221. SEC. 10. That all moneys collected on account of the aforesaid assessment by the respective adjacent cities, towns or townships whose lands are so assessed shall be kept in a separate fund, which fund shall be applied to reimbursing the town through [in which] the road or street lies for such expenses as said town may have incurred in the carrying out of such improvements; and it shall be the duty of the governing bodies of the said adjacent cities, towns or townships to pay over to the governing bodies of the aforesaid town or township in which said road lies, on demand, such sums of money as may have been collected whenever demand is made therefor.

222. SEC. 11. That in order to meet the expenses for the construction of said street or road and of the proceedings in relation thereto, as mentioned in this act, the council of the said town or other governing body may borrow the money necessary therefor, temporarily, upon the promissory notes of such corporation, or may issue temporary improvement certificates from time to time as the work progresses in such form as the said council of said town or other governing body may prescribe; said notes and certificates shall bear interest at a rate not exceeding six per centum per annum, and shall be payable at the expiration of not more than two years from the date of issue; all receipts from assessments made against property benefited by such improvements shall be paid to the treasurer of the said town or township, and shall be applied to the payment for such improvements or to the payment of any temporary indebtedness incurred by the said town or township therefor.

223. SEC. 12. That in order to provide for so much of the cost of such improvements as may be required to be paid by any city, town or township, or for any notes or certificates of indebtedness issued therefor which may remain unpaid, it shall and may be lawful for such city or town or township to issue bonds to run for a period not to exceed ten years and to bear interest not exceeding six per centum per annum, which said bonds shall be styled improvement bonds, shall be issued in such denomination as the governing bodies of the several municipalities may determine, and be executed under the corporate seal of the said municipality, signed by the proper official; coupons for every half year's interest shall be attached to each bond and numbered to correspond thereto, or the said bonds may be registered, at the option of the holder; they shall be sold for not less than their par value, and the proceeds thereof shall be used to pay the portion of the costs, damages and expenses of said improvements and public works required to be paid by such municipality as aforesaid, and to take up and pay off such temporary notes or certificates as have been given in payment of such costs and expenses that may be outstanding; *provided*, that in order to meet the interest on said bonds and redeem the same at maturity, it shall be the duty of the council or other governing bodies of such municipalities to order the interest thereon, together with a sinking fund of not less than five per centum of the total amount of said issue, to be raised in the annual tax levy.

224. SEC. 13. That all acts and parts of acts, whether general, public, local or special, inconsistent with this act, be and the same are hereby repealed.

An act concerning streets and avenues in towns and townships in this state.

P. L. 1893, p. 333.

Towns and townships, in certain cases, may accept lands dedicated to street uses.

Approved March 15, 1893.

225. SEC. 1. That in any case where any person or corporation owns a tract of land bounded on three of its four sides by streets or avenues already opened along the full length of such three sides, in any town or township

of this state, and occupies and uses such tract of land and the buildings thereon erected for charitable, educational or religious purposes; and where such town or township has taken proceedings to open a street or avenue through such tract of land, and has also taken proceedings to widen one of such three streets or avenues bounding three of the sides of such tract by taking the land from such tract along its full length for such widening; and where it is desired by any such person or corporation, except as to the land to be taken for such opening and for such widening, to preserve such tract entire for any of the purposes aforesaid; and where such person or corporation in consideration of no other street or avenue being hereafter opened or extended through any part of such tract shall offer to donate and dedicate to such town or township the land necessary for such street or avenue to be opened through such tract, and also for the widening of such street or avenue along such tract, in such case it shall be lawful for such town or township, through its town council or township committee or other governing body, and such council, committee or body is hereby empowered and authorized to by resolution accept such offer upon such condition and to enter into and execute a contract with such person or corporation, in consideration of such donation and dedication, not to open or extend through such tract or any part thereof, any street or avenue other than such street or avenue for the opening of which and such street or avenue for the widening of which the land shall be donated and dedicated as aforesaid.

226. SEC. 2. That when a deed of donation or dedication as aforesaid has been executed and acknowledged by such person or corporation and filed with the clerk of such town or township, which deed it shall be the duty of said clerk to file when presented to him for filing, and shall be accepted by such council or committee by resolution, then it shall not be lawful at any time thereafter unless with the consent of the owner of such tract to open or extend through any part of such tract any street or avenue other than that for the opening of which and that for the widening of which the land shall be donated or dedicated as aforesaid.

Deed of dedication to be filed and accepted.

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

Repealer.

An act to provide for the planting and care of shade trees on the highways of the municipalities of this state.

Approved March 28, 1893.

P. L. 1893, p. 496.

228. SEC. 1. That in all the municipalities of this state there may be appointed, in the manner hereinafter provided, a commission of three freeholders, who shall serve without compensation, and who shall have the exclusive and absolute control and power to plant, set out, maintain, protect and care for shade trees in any of the public highways of their respective municipalities, the cost thereof to be borne and paid for in the manner hereinafter directed.

Municipalities may appoint commissions to plant and care for shade trees.

229. SEC. 2. That it shall be optional with the governing body of any municipality whether this act shall have effect in, and such commissioners shall be appointed in, such municipality; and whenever any such governing body shall by resolution, approve of this act, and direct that such commissioners shall be appointed, then, from that time, this act and all its provisions shall be in force, and apply to such municipality; and such commissioners shall be appointed for terms of three, four and five years, respectively; and on the expiration of any term, the new appointment shall be for five years, and any vacancy shall be filled for the unexpired term only; and in cities the said appointment shall be made by the mayor thereof, and in townships by the chairman of the township committee, and in villages and boroughs by the chairman or president of the board of trustees, or other governing body.

Appointment and term of commissioners.

230. SEC. 3. That whenever said commissioners shall propose to make any such improvements as setting out or planting any shade trees, or changing the same in any highway, they shall give notice of such contemplated improvement (specify the streets or portions thereof where such

Notice of contemplated improvement to be published.

trees are intended to be planted) in one or more of the newspapers of their said municipality, if there be any newspaper published in said place, for at least two weeks prior to any meeting in which they shall decide to make such improvement.

By whom cost of planting trees borne.

231. SEC. 4. That the cost of planting and transplanting any trees in any highway, and boxes or guards for the protection thereof, when necessary, shall be borne by the real estate in front of which such trees are planted or set out, and the cost thereof as to each tract of real estate shall be certified by said commissioners to the person having charge of the collection of taxes for said municipality; and upon the filing of said certificate, the amount of the cost of such improvement shall be and become a lien upon said lands in front of which said trees were planted or set out, and the said collecting officer shall place the assessment so made against any property in the annual tax bills rendered to owner or owners of such property, and the same shall be collectible in the same manner as the other taxes against said property are collected.

Cost of such improvement collected same as other taxes.

Cost and expense of caring for said trees paid by a general tax.

232. SEC. 5. That the cost and expense of caring for said trees, after being planted or set out, and the expense of publishing said notices, shall be borne and paid by a general tax to be raised by said municipality; said tax shall not exceed the sum of one-tenth of one mill on the dollar annually on all the taxable property of said municipality, and the needed amount shall be each year certified by said commissioners to the assessor and assessors of the said municipality, and be assessed and raised as other taxes.

An act relative to the lighting of streets, roads and public places in this state.

P. L. 1894, p. 170.

Approved May 1, 1894.

Contracts for lighting streets for term not exceeding five years may be made.

233. SEC. 1. That the board of authority of any city, county, town or township of this state, charged with the duty of lighting the streets, roads and public places of such municipality, or now exercising such authority, be and it is hereby vested on behalf of said municipality with the duty of making such contract or contracts for lighting the streets, roads and public places in such municipality for such term not exceeding five years, as in the judgment of said board of authority shall be deemed for the best interest of such municipality; and the board of authority in any such municipality, having the power, and charged with the duty of making and adopting the annual tax levy or tax ordinance of said municipality, shall appropriate the necessary amount each year to pay the cost of such lighting or the fulfillment of any such contract or contracts.

Previous contracts shall be valid.

234. SEC. 2. That any contract heretofore entered into by any city, county, town or township in this state for the lighting of public streets, roads and public places thereof for any period not exceeding ten years shall be as valid and effectual as if the same had been entered into and made pursuant to legislative authority for such term; and it shall be the duty of the board or authority in such municipality charged with the duty of making and adopting the annual tax levy or tax ordinance of such municipality to appropriate the amount necessary each year to pay the cost of such lighting and the fulfillment of any such contract or contracts heretofore made.

Provisions not applicable to certain municipalities.

235. SEC. 3. That the provisions of this bill shall not apply to any city, county, town or township in this state having a population of less than twelve thousand inhabitants, according to the last state or federal census.

Repealer.

236. SEC. 4. 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.

An act providing for the changing of the name of any avenue, street or highway in any township or borough of this state.

P. L. 1894, p. 181.

Approved May 1, 1894.

Provisions for changing name of street in any township or borough.

237. SEC. 1. That when two-thirds of the owners of real estate along the line of any avenue, street or highway in any township or borough of this state, shall petition the common council or other governing body of

any such township or borough to change the name of such avenue, street or highway therein, it shall be the duty of such common council or other governing body thereupon to pass an ordinance changing the name of such avenue, street or highway to the name designated and prayed for in such petition.

An act to enable township committees, or the governing bodies of any boroughs, towns, villages or improvement commissions in towns and villages, or within townships in this state, to pass and enforce their ordinances respecting the use of broad tires on wagons and carts upon their macadamized public streets and to collect the penalty for the violation thereof.

Approved May 1, 1894. P. L. 1894, p. 189.

238. SEC. 1. That it shall be lawful for any township committee or other governing body of any borough, town, village or improvement commission to pass all necessary ordinances requiring the use of broad tires, but not more than four inches in width, upon all coal, express, lumber, brick or other draft wagons or carts, carrying fifteen hundred pounds or over, used upon any of the macadamized public streets, within the limits of the jurisdiction of said township, borough, town, village or improvement commission, and to enforce the observance of such ordinances by a penalty for the violation thereof by a fine not exceeding twenty dollars for each offense; *provided, however*, that no ordinance or penalty herein authorized shall take effect until six months after the passage and publication in a newspaper circulating in said township, borough, town, village or improvement commission of such ordinance, and shall not be applicable to wagons and carts transiently passing through the limits of said township, borough, town, village or improvement commission and not owned or permanently used therein.

Provisions for enforcing use of broad-tired wheels on draft wagons, &c.

Proviso.

An act to empower the town and township committees in counties of the third and second class to enter into a contract for public lighting for a term of years.

Approved May 17, 1894. P. L. 1894, p. 420.

239. SEC. 1. That it shall be lawful for and the town or township committee of any incorporated town or township in any county of the third and second class are hereby empowered and authorized to make and enter into a contract or agreement with any gas, electric light or other company for one year, or for a term of years, for obtaining and furnishing lights and lighting either with gas, electricity or other illuminating body for lighting the public streets or public buildings of any such town or township; and any such contract or agreement, when so made, shall be the valid and lawful contract of any such township as well as of any such gas, electric light or other company, according to the tenor and effect thereof, and the sum or sums of money in such contract agreed to be paid in each year by any such town or township, or by the town or township committee thereof, shall be annually appropriated, levied, assessed and collected as a tax upon the real and personal estates within such town or township and subject to taxation for other municipal purposes in the same manner that other municipal taxes are assessed and collected, and the said real and personal estates are hereby made liable to and for the assessment and collection of such tax; *provided, however*, and it is hereby expressly enacted that no such agreement or contract shall be made for a longer period than three years in any one term.

Certain towns and townships may make contracts for lighting streets and public buildings.

Proviso.

240. SEC. 2. That it shall be lawful for and the town or township committee of any such town or township are hereby authorized and empowered to use any and all such sum or sums of money for carrying into effect the purposes of this act heretofore or hereafter appropriated by the legal voters of such town or township, at any annual town meeting for said public lighting.

Moneys for such purposes, how provided.

241. SEC. 3. That all acts and parts of acts, public, special or local, inconsistent herewith, be and the same are hereby repealed, and this act shall be a public act and take effect immediately.

Repealer.

An act authorizing the lighting of public streets and places in the cities, towns, townships, boroughs and villages of the state, and to erect and maintain the proper appliances.

P. L. 1894, p. 477.

Municipalities may cause public streets and places to be lighted, and make contracts therefor.

Approved May 22, 1894.

242. SEC. 1. That it shall hereafter be lawful for the common council, township committee or other municipal authorities of any city, town, township, borough or village in this state, authorized to act in such matters from time to time, and by ordinance or resolution, to order and cause any public street or streets, place or places, or any part or parts thereof, in any such city, town, township, borough or village, respectively, to be lighted with gas, electric lights or otherwise, and for that purpose to erect and maintain or cause to be erected and maintained all necessary and proper posts, poles, lanterns and fixtures on any or all of the public roads, streets, lanes or alleys, and to make and enter into any contract or contracts with any other party or parties, for any term or terms not exceeding five years, and to cause the annual expense thereof after being ascertained or determined by resolution of said council, committee or other municipal authorities, to be certified to the assessor or assessors of said city, town, township, borough or village; and that such annual expense shall thereupon be levied, assessed and collected from all the real and personal property in said city, town, township, borough or village, respectively, in the same manner, at the same time and under the same penalties (but without any extra compensation therefor) as the taxes for the working or repairing of roads or streets in such city, town, township, borough or village, respectively, are or may be; *provided, however*, that in making such assessment of the tax hereby authorized, the said assessor or assessors shall not be restricted or controlled in any way by any special act of the legislature heretofore passed, whereby the amount of any tax to be raised in any city, town, township, borough or village is limited to a certain percentage upon the valuation of the assessed property therein. (a)

Cost of, shall be levied and collected by taxation.

Proviso.

Repealer.

243. SEC. 2. That any act or acts, or part or parts thereof, inconsistent with the provisions of this act, is and are hereby repealed in so far as it or they is or are inconsistent herewith, and that this act is hereby declared to be a public act and shall take effect immediately.

An act to allow municipalities and improvement commissions, other than cities of the first class, to issue certificates of indebtedness for street improvements.

P. L. 1895, p. 275.

Municipalities, except first-class cities, may issue certificates of indebtedness for sewer improvements.

Approved March 14, 1895.

244. SEC. 1. That the legislative body of any municipality and improvement commission, other than cities of the first class of this state, shall have authority to issue certificates of indebtedness to an amount not exceeding the cost of any street or sewer improvement or improvements, in anticipation of the collection of any assessment or assessments made or to be made therefor, which certificates shall be redeemable after one year from date and payable in five years, and shall draw such rate of interest, not exceeding five per centum per annum, as such legislative body may determine.

An act relating to towns and boroughs.

P. L. 1895, p. 381.

Towns and boroughs may vacate, alter, &c., streets, roads and alleys.

Approved March 20, 1895.

245. SEC. 1. That it shall be lawful for the common council of incorporated towns and boroughs, by ordinance, to order and cause any street, road, highway or alley already laid out or any portion thereof to be vacated, straightened, altered or widened, and to take and appropriate for purpose of vacating, straightening, altering or widening any lands and real estate

(a) This act confers on township committees general power over the matters of lighting streets and public places, and gives them authority to enter into contracts to light the streets with gas, electric lights or otherwise for a term not exceeding five years, and to cause the annual expense thereof to be raised by

tax. It is not necessary to award the contract to the lowest bidder, but in making the award reasonable discretion for the benefit of the township must be exercised. *Scheffbauer v. Kearney*, 28 Vr. 588.

upon making compensation to the owner or owners thereof, in the manner now provided by law.

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

An act to authorize the town committee or other legislative or governing body of any township, borough or borough commission to alter, fix, establish and maintain the grade of any street, road or highway within its jurisdiction and define the grade so established by suitable monuments.

Approved March 22, 1895. P. L. 1895, p. 449.

247. SEC. 1. That it shall and may be lawful for the town committee or other legislative or governing body (by whatever name the same may be called) of any township, borough or borough commission, by ordinance, to alter, fix, establish or maintain the grade of any street, road or highway within its jurisdiction, so that surface water may flow thereon with the least obstruction and with as little damage to private property as possible. Townships, boroughs and borough commissions may fix and alter street grades.

248. SEC. 2. That when the grade of any street, road or highway shall have been so altered, fixed and established, such town committee or other legislative or governing body shall cause such grade to be marked by monuments at suitable and convenient distances, and any and all subsequent improvements and repairs to any such street, road or highway shall conform to such grade, and it shall be unlawful to change, alter or disturb any grade so established and fixed without authority from such town committee or other legislative or governing body. Grades shall be marked by monuments.

249. SEC. 3. That the expense of altering, fixing and establishing any such grade and marking the same by monuments as aforesaid, shall be paid by the proper officer, upon the order of such town committee or other legislative or governing body, from any moneys raised in such township, borough or borough commission for the repair of streets, roads or highways. Expenses shall be paid on order of governing body.

IV. Sewers.

An act for the establishing and maintaining sewers in localities governed by commissioners.

Passed March 9, 1885. P. L. 1885, p. 56.

250. SEC. 1. That it shall be lawful for the commissioners of any incorporated locality, governed by a board of commissioners, to contract with any person, persons or corporation for the removal of sewage, and for the construction of a comprehensive system of sewerage within the boundaries of such local government, upon such reasonable terms as they may agree upon, also, for said board to make ordinances and rules in relation to the manner of such construction and maintenance of such sewers, and in relation to the manner in which said person, persons, or corporation, so contracting, shall exercise their rights. Boards of commissioners may contract for removal of sewage and construction of sewers.

251. SEC. 2. That such person, persons or corporation shall be subject to such rules, ordinances and regulations as said commissioners may establish, and have the right to use such streets for the purpose of the construction of such sewers as may be agreed upon by such board of commissioners, and shall have the right to make such reasonable charges against the owners of buildings, which may be connected with said sewers, as the said commissioners may agree to. Persons subject to rules of commissioners.

252. SEC. 3. That the said board of commissioners or other governing body shall have the right to purchase and take from such person, persons or corporation, their entire system of sewerage and drainage, constructed under this act and any supplements that may be made thereto, upon such terms as may be agreed upon between such commissioners and person, persons or corporation, and, at any time after the expiration of twenty years, shall have the right to purchase said system of sewerage and drainage, upon Board of commissioners may purchase system of sewerage.

Proviso.

payment to said person, persons or corporation of a sum of money equal to the original cost of said works; *provided*, that if said person, persons or corporation shall fail or neglect to keep said system in good, healthy and effective condition, their rights as are guaranteed by this act shall be forfeited to said board of commissioners.

An act to authorize the construction of drains and sewers upon and across private property, upon suitable compensation to the owner or owners thereof, in incorporated towns in this state.

P. L. 1886, p. 71.

Approved March 6, 1886.

Towns and municipalities governed by commissions may construct sewers and condemn private lands necessary therefor.

253. SEC. 1. That where, in the act of incorporation, or any supplement thereto, of any incorporated town, or any municipality governed by commissions, in this state, no express provision is made for the construction of sewers, drains, culverts and other works for the proper drainage of any part of such town, upon or across private property, and no mode of procedure to effect the condemnation of lands for such purpose and to provide suitable compensation to the owners thereof has been laid down, the board of commissioners, or other governing body of such incorporated town, are hereby invested with full powers to construct such sewers, drains, pumps, docks, dams, tide banks and such other works as they shall deem necessary, either upon or across any road or street in such town, and also upon or across any private lands in such town, with full powers of condemnation of lands for that purpose, in which latter case they shall award the owner or owners of such lands just compensation therefor, and shall add the amount of such compensation to the cost of constructing such works; before fixing the compensation in any case, such board of commissioners, or other governing body, shall notify the owner or owners of the lands, sought to be taken for the purpose aforesaid, to appear before them, to the end that such owner or owners may have full opportunity to be heard upon the question of the value of such land; the award of compensation shall be final, unless such board of commissioners, or other governing body, shall reconsider the same and make a new award, or such owner or owners shall appeal, within the time provided in the act incorporating such town, or some supplement thereto, and such award shall bear interest at the rate of six per centum per annum from the date of making the same until paid.

Compensation for lands, how ascertained.

Expense of work to be assessed upon land benefited.

Notice to be published of meeting of commissioners.

254. SEC. 2. That the expense of such works shall be assessed upon land specially benefited by such improvement in proportion to the benefit received thereby, as nearly as such board of commissioners or other governing body can ascertain the same, and the balance of such expense, if any there be, shall be provided for and paid out of the town treasury as herein-after provided; before such assessment of benefits shall be made said board of commissioners or other governing body shall give notice for two weeks successively, in a newspaper published in such town, that they will meet at a certain time and place mentioned in such notice to hear the views of all persons interested in the matters referred to in such notice, at which time and place such board of commissioners or other governing body shall meet and give full and reasonable opportunity to all persons interested to express their views, and may adjourn from time to time, and shall thereupon proceed to make a just and equitable assessment of the costs and expenses of such works, including damages for lands or other property taken, upon the lands specially benefited by such works in proportion to the benefits acquired by such lands, not exceeding in any case the special benefit so received; within ten days after making such assessment of benefits a notice shall be sent through the post-office to each owner of lands so assessed (as nearly in each case as the name and address of the owner can be ascertained), stating the amount assessed against such lands, and that such assessment will be open for inspection during the next fifteen days, and that said board of commissioners or other governing body will then meet, at a time and place in such notice specified, to hear objections, and to revise and correct and finally confirm such assessment; at which

Notice of assessment to be sent to landowners.

Notice of meeting to revise assessment.

time and place such board of commissioners or other governing body shall meet and give all parties appearing before them an opportunity to be heard, and may adjourn from time to time, and may reconsider such assessment and may make any alteration therein they shall deem just, and thereupon they shall revise, correct and finally confirm the said assessment, and within ten days thereafter shall file such assessment in the office of the clerk of the county, and shall give notice of such filing by publication once a week for four weeks in a newspaper published in such town; and such final determination of such board of commissioners or other governing body shall be final and conclusive, unless an appeal be taken as provided in the act incorporating such town, or some supplement thereto.

Assessment to be filed, &c.

255. SEC. 3. [Amended by Sec. 259, *post.*]

256. SEC. 4. That in case the cost of constructing such sewer or sewers and the erection and construction of such other works as are deemed necessary for the purposes aforesaid shall exceed the benefits to lands specially benefited thereby, such excess of cost and expenses shall be raised by general taxation in such town, to be assessed, levied and collected in the same manner as other taxes for town purposes are assessed, levied and collected.

When costs and expenses exceed benefits to land, excess to be raised by general taxation.

257. SEC. 5. That the board of commissioners or other governing body shall have power to issue certificates of indebtedness, or improvement certificates, to the contractors, for work done, to be paid out of moneys raised for the purposes specified in this act.

Authorized to issue certificates of indebtedness.

258. SEC. 6. That the notice mentioned in the first section of this act shall be served upon such owner or owners, either personally or upon some member of the family above the age of fourteen, if such owner or owners shall be resident of the county wherein such town is situate, and shall be served at least ten days before the day of meeting, and if not a resident of the county then such notice shall be mailed to the post-office address of such owner or owners, as nearly as such board of commissioners or other governing body can ascertain the same, at least ten days before such day of meeting.

Notice to owners of lands taken, how served.

Supplement.

Approved March 24, 1890.

P. L. 1890, p. 103.

259. SEC. 1. That section three of said act shall be and the same is hereby amended to read as follows:

[That from and after the filing of such assessment in the office of the clerk of the county, such assessment shall be and remain a first and paramount lien upon each lot of land or property assessed for the amount assessed thereupon, with interest thereon, and all costs and fees thereon, until the same shall be paid and satisfied, notwithstanding any devise, descent or alienation of such land, or any judgment, mortgage or incumbrance whatsoever thereon, and notwithstanding any mistake in the name or names of the owner or owners, or any omission to name the owner or owners thereof, and any assessment in which such mistake or omission occurs shall nevertheless be a valid and effectual lien as aforesaid upon the lands assessed; and if such assessment, with interest, be not paid within one year from the time when the same is payable, then the land upon which such assessment is a lien shall be sold to pay the same, with interest thereon at the rate of one per centum per month from the time when the same was made payable, together with all fees, charges and expenses of collection and sale, in the same manner as land is authorized to be sold for unpaid taxes in said town; *provided*, that where, in the act of incorporation of any such town or some supplement thereto, no express provision is made for effecting the sale of lands for taxes, then such lands may be sold under and by virtue of the general laws of this state relating to taxes, except that the warrant for the collection of any such assessment or tax may be issued either by a majority of the board of commissioners or by the police justice, or by such other officer as such board of commissioners shall designate by resolution, and may be directed to the township collector, or to any marshal or assistant marshal of such town.]

Assessments to be a lien on lands.

Proviso.

Powers extended to all assessments already made.

260. SEC. 2. That the powers conferred by this act shall be extended to any and all assessment or assessments that may have been already made under said act to which this is a supplement, prior to the passage of this act.

An act providing for sewerage in and by adjoining cities, towns and townships.

P. L. 1887, p. 185.

Approved April 21, 1887.

Council and township committee of adjoining municipalities may enter into contract for the connection and discharge of sewers and drains.

261. SEC. 1. That where any town or township in this state having the power to construct sewers and drains is or shall be so situated that such town or township, or a section thereof, shall have no outlet for sewers or for sewerage or drainage except through and across the territory of an adjoining city, town or township, it shall be lawful for the council or township committee of such town or township to contract and agree in writing with the proper municipal authorities of any such adjoining municipality for the privilege and right to connect and discharge the sewers and drains of such town or township, built or contemplated to be built with and into the sewers of such adjoining municipality, for such sum or consideration in gross and upon such terms and for and during such period as may be settled upon and determined by and between the said respective local authorities. [See Sec. 297, *post.*]

Council or town committee authorized to issue and sell bonds.

262. SEC. 2. That in case a sum in gross is agreed to be paid for such right or privilege, it shall be lawful for the council or township committee of such town or township, in order to raise the moneys agreed to be paid therefor, to issue and sell bonds in the corporate name of such town or township for an amount not exceeding the price so agreed to be paid, to run not exceeding five years and to bear interest at a rate not exceeding six per centum per annum.

Cost and expenses of obtaining right and privilege to construct main sewer to be included in assessments.

263. SEC. 3. That whenever such town or township shall construct a main sewer to connect with any sewer in such adjoining municipality the whole cost and expense of obtaining such right or privilege as aforesaid, including interest thereon to such time, shall then be included in and shall form part of the total cost and expense of constructing such main sewer, and shall be included in any assessment or assessments made or to be made for benefits arising from the construction of such main sewer.

264. SEC. 4. [Amended by Secs. 277 and 280, *post.*]

265. SEC. 5. [Amended by Sec. 281, *post.*]

266. SEC. 6. [Amended by Sec. 282, *post.*]

Conditions under which sewer may be constructed.

267. SEC. 7. That if a majority of the estimated probable assessment in the drainage areas in each municipality shall not have objected thereto as aforesaid, the respective clerks thereof shall so certify to the said commissioners, and then and from thenceforth the said commissioners shall have full power and authority to make, build and construct and to acquire the right of way and an outlet for the sewer described and designated in said report, plans, estimates and maps and to do all and every act necessary to be done for the proper building and constructing of such sewer.

268. SEC. 8. [Amended by Secs. 278 and 293, *post.*]

269. SEC. 9. [Amended by Sec. 283, *post.*]

270. SEC. 10. [Amended by Sec. 284, *post.*]

Municipalities may issue bonds to pay amount of costs and expenses, &c.

271. SEC. 11. That either municipality may issue and sell bonds to run not exceeding ten years, and to bear interest at not exceeding six per centum, to and for amount sufficient to pay its share of cost and expense of constructing such sewer, and all moneys received or collected for or on account of the assessment hereinafter provided for shall be held and kept inviolable for the redemption of the bonds herein authorized to be issued.

Costs and expenses, how ascertained, and to be assessed upon lands benefited.

272. SEC. 12. That after the completion of such sewer the whole cost and expense thereof shall be ascertained by the said commissioners, and the same shall, as far as practicable, be assessed upon the lands lying within said drainage areas of said municipalities specially benefited by the construction of such sewer in proportion to the benefit received, and no lot or parcel of land shall be assessed more than it is so specially benefited;

after they shall have completed such assessment they shall present their report to the circuit court of the county in which such municipalities are situated, together with a map and schedule showing all the land and real estate assessed, and each lot and parcel thereof, and the names of the owners so far as the same are known to the said commissioners (but no assessment shall be deemed defective by reason of any mistake in the names of said owners or any of them), and upon the coming in of said report, signed by said commissioners or a majority of them, the said court shall direct such notice to be given thereof and of the time and place of hearing any objections that may be made to such assessment, for such time and in such way and manner as it shall deem proper; and after hearing any matter that may be alleged against the same, the said court shall, by rule or order, either confirm such assessment or, if deemed necessary, refer the report and assessment back to the commissioners for revision and correction, who shall return the said report and assessment to the said court, corrected and revised, without any unnecessary delay, and the same, on being so returned, shall be confirmed or again referred by the said court as right and justice shall require, and so from time to time until a report and assessment shall be made or returned, which the said court will confirm, and such report and assessment, when so confirmed by said court, shall be final and conclusive upon the owners of all lands and real estate affected thereby, and the said court shall thereupon cause certified copies of the report and assessment to be transmitted to the clerk of each of said municipalities, with certified copies of the rule or order confirming the same.

Commissioners to make report to circuit court.

273. SEC. 13. That from and after the time of such confirmation the said assessment shall be and remain a lien upon the lands upon which it is made until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereof, and such assessment may be collected and the payment thereof enforced by the municipality to which the same is due in the manner prescribed by law with respect to other assessments therein, and shall be subject to the like interest and penalties.

Assessment to remain a lien on lands.

274. SEC. 14. That a majority of the commissioners herein provided for shall be sufficient to determine any matter or question arising or coming before them; and in case a vacancy shall at any time occur in said commission it shall be filled by the body making the appointment so become vacant, and the person appointed to fill such vacancy shall possess the like qualifications as are herein prescribed with respect to his predecessor and he shall make and file the oath or affirmation required to be made and filed by the other commissioners.

Majority of commissioners to determine questions &c. Vacancies, how filled.

275. SEC. 15. [Amended by Secs. 279 and 285, *post.*]

276. SEC. 16. [Amended by Sec. 286, *post.*]

Supplement.

Approved February 21, 1888.

P. L. 1888, p. 78.

277. SEC. 1. [This section, amending Sec. 264, *ante*, is amended by Sec. 280, *post.*]

278. SEC. 2. [This section, amending Sec. 268, *ante*, is amended by Sec. 293, *post.*]

279. SEC. 3. [This section, amending Sec. 275, *ante*, is amended by Sec. 285, *post.*]

Supplement.

Approved April 4, 1889.

P. L. 1889, p. 177.

280. SEC. 1. That the fourth section of an act entitled "An act providing for sewerage in and by adjoining cities, towns and townships," approved April twenty-first, one thousand eight hundred and eighty-seven [see Secs. 264 and 277, *ante*], be and the same is hereby amended so as to read as follows:

[That the said council or township committee of any such town or township, and the proper municipality of such adjoining municipalities, instead of making the contract or agreement provided for by the first section of this act, may each appoint one disinterested commissioner, who, after first

Township and municipal authorities may appoint commissioners for certain purposes in connection with sewers.

making oath or affirmation, in writing, that they will exercise the powers and discharge the duties vested and imposed upon them honestly and faithfully and to the best of their ability and understanding, shall appoint an additional disinterested commissioner to act with them, who shall reside in the county, but shall be a non-resident of either such town or township or such adjoining municipality, who shall make the same oath or affirmation as is above required to be made by the other commissioners, all of which oaths or affirmations aforesaid shall be filed in the office of the clerk of the county in which such municipalities are situated; the compensation of each of the said commissioners shall be the sum of five hundred dollars for services required of them under the provisions of this act, which said compensation shall be apportioned in equal amounts between or among such municipalities, and said commissioners shall draw an order on each municipality, in favor of the chairman of the said commission, which order shall be paid on presentation by the municipality on which it is drawn, and it shall then be the duty of the said chairman of said commission to pay to each of said commissioners the compensation herein specified.]

281. SEC. 2. That the fifth section of the same act [see Sec. 265, *ante*] be and the same is hereby amended so as to read as follows:

Powers and duties
of such commis-
sioners.

[That after filing the oaths provided for in the next preceding section the commissioners shall consider all the territory in each municipality and shall ascertain and determine the area in each having no sewerage which could be conveniently drained and sewered into the same outlet or main sewer, and shall make a map showing such drainage area, divided into lots and parcels of land, and showing also the size, route and outlet of a main or outlet sewer proper and sufficient for that purpose; they shall also prepare plans of the work required to be done thereon, and also an estimate or estimates of the probable total costs and expense of constructing the same; they shall likewise ascertain and determine the probable assessment which will be levied or imposed upon each lot and parcel of land in such drainage areas specially benefited by the construction of such sewer, and also the proportion of the total cost and expense of construction which each municipality ought to contribute and advance during the progress of the work; and the amount to be advanced by each municipality shall be in such proportion as the total estimated special benefits therein shall bear to the aggregate of the special benefits in all the municipalities joining in such proceeding, and without unnecessary delay shall make and file with the proper authorities of each municipality joining in such proceedings duplicates of their reports, plans, estimates and maps; and such duplicates shall remain open to public examination and inspection in the respective municipalities in which they may be filed until the time for presenting objections thereto, as hereinafter provided, shall have expired; notice of the filing of such reports, plans, estimates and maps shall be published by the clerk of each municipality, in the official newspapers thereof, for four weeks successively, at least once in each week, which said notice shall also describe the boundaries of the drainage area in each municipality affected thereby, and shall designate the place or places in either of such municipalities where such reports, plans, estimates and maps can be seen and examined, and shall specify the time within which and the place where written objections to the construction of such proposed sewer may be filed, the last day of which time shall not be less than forty days from the date of the first publication of such notices; all written objections to the construction of such proposed sewer shall be filed with the clerk of the municipality which includes the drainage area in which the land of the objecting owner lies, and each of said clerks shall, at least fifteen days prior to the expiration of the time specified in such notice, post printed copies of such notice in at least twenty conspicuous places in the drainage area in the municipality of which he is clerk; at any time prior to the publication of the notice of the filing of such reports, plans, estimates and maps, as hereinbefore provided, the commissioners may, in their discretion, file supplementary reports, plans, estimates and maps, changing, altering or extending the original reports, plans, estimates and maps; in case the commissioners shall file such sup-

plementary reports, plans, estimates and maps as aforesaid, then such supplementary reports, plans, estimates and maps shall take the place of the original reports, plans, estimates and maps, which said original reports, plans, estimates and maps shall then be null and void and of no effect; *provided, however*, that nothing in this act contained shall prevent the commissioners from making slight changes in the location, grade and plans of such sewer, during the progress of its construction, in order to reduce the cost of same or to make it more effective for the purpose of its construction.]

Proviso.

282. SEC. 3. That the sixth section of the same act [see Sec. 266, *ante*] be and the same is hereby amended so as to read as follows:

[That within fifteen days after the expiration of the time named in said notice, the council, governing body or proper board of such municipalities shall respectively meet and examine the written objections to the construction of such proposed sewer that have been filed with their respective clerks; and if a majority in amount of the estimated probable assessment in the drainage area in either of such municipalities shall have objected thereto in writing, then, upon its being so certified by the clerk thereof to the said commissioners, no further proceedings shall be had or taken by said commissioners; and in that event, the costs and expenses of said commission, including compensation to a counsel and a competent engineer, the said commissioners being hereby authorized to employ one of each, shall be determined upon and shall be borne and paid equally by said municipalities.]

Proceedings after the filing of written objections to construction of sewer.

283. SEC. 4. That the ninth section of the same act [see Sec. 269, *ante*] be and the same is hereby amended so as to read as follows:

[That the said commissioners shall have full power and authority to enter into contracts with responsible persons, as hereinafter provided, for doing the work and furnishing the necessary materials required in the construction of such sewer or any section thereof, together with proper appurtenances thereof; they shall advertise for proposals in at least two newspapers published in the county in which such municipalities are situated, for doing the work and furnishing the materials for the whole sewer or for any section thereof, and the contracts shall be awarded to and made with the lowest responsible bidder who will comply with the requirements of the commissioners and will give ample security for doing such work and furnishing such materials according to contract.]

Work to be done by contract.

284. SEC. 5. That the tenth section of the same act [see Sec. 270, *ante*] be and the same is hereby amended so as to read as follows:

[That the commissioners shall, on the sworn certificate of their engineer and such other evidence as they may require of the completion of any portion of the work, apportion the amount to be paid therefor by each municipality appointing said commissioners, and shall draw an order on each in favor of the contractor or contractors for the amount so apportioned to it, which order, on presentation, shall be paid by the municipality on which it is drawn, either in money or improvement certificates or in the bonds of such municipality, as may be agreed upon; *provided, however*, that at no time before said work shall be fully completed shall the said commissioners draw orders for more than eighty per centum of the work done, and when such work shall have been fully completed, orders for an additional ten per centum thereof may be drawn, and at the expiration of not more than six months thereafter orders for the remaining ten per centum may be drawn; and in case either municipality shall fail or refuse to pay any order drawn thereon by said commissioners on presentation, an action shall lie against it in favor of the person to whom it is made payable; proof of the issuing of such order by the said commissioners shall be sufficient proof of the liability of such municipality.]

Apportionment of costs between the municipalities.

Proviso.

285. SEC. 6. That the fifteenth section of the same act [see Secs. 275 and 279, *ante*] be and the same is hereby amended so as to read as follows:

[That whenever any sewer proposed to be constructed under this act, shall be located so as to empty or discharge its contents into any creek, and a written request and demand of the governing body or proper author-

Provisions where sewer empties into any creek.

ity of any municipality bordering upon said creek, shall be made to said commissioners, for the erection of tide and sluice banks and sluice-gates in said creek, in connection with said sewer and as a part thereof, as herein-after mentioned, then and in that event no sewer shall be built and constructed under this act so as to empty or discharge its contents into such creek, unless the said commissioners shall, and they are hereby authorized and directed to build and construct, or cause to be built and constructed, in connection with and as a part of said sewer, in and across said creek, such suitable and substantial tide and sluice banks, with the necessary sluice-gates therein, as will best protect the lands lying above the same, and the public health of said municipality, making said request, from the effects of said sewer and outlet; the same to be placed in said creek above the outlet of such sewer, at a place to be selected by said commissioners, and the same to be of such plan and design as may be mutually agreed upon by said commissioners and said governing body of said municipality making such request and demand; and in case of the refusal of any such municipality to agree as aforesaid, then the same to be of such plan and design as may be fixed and determined by the board of health of the state of New Jersey, upon application for that purpose made, and after notice to and hearing of the other party or parties interested; and the cost and expense of the construction of said sluice and banks shall be included by said commissioners in the estimate and assessment of said sewer; and said sluice and banks, after their completion, shall be forever thereafter maintained and kept in repair at the joint expense of said municipalities constructing said sewer; *provided, however*, that no sewer, or the outlet thereof, shall, in any event, be constructed or located so as to empty, drain or discharge its contents into any creek across which there is any bridge forming part of a public highway, unless it be at a point or place in said creek at least fifteen hundred feet from such bridge and highway; *and provided further*, that said sewer shall not be used, or its contents allowed or permitted to empty or drain into said creek, until said sluice and banks are first built [and] erected as hereinbefore provided.]

Proviso.

Proviso.

286. SEC. 7. That the sixteenth section of the same act [see Sec. 276, *ante*] be and the same is hereby amended so as to read as follows:

When powers of this act may be vested in any particular board or department of any municipality.

[That where, in any municipality affected by this act, the power to build and construct sewers is vested in any particular board or boards, department or departments, thereof, the powers and duties herein vested in and imposed upon the authorities of such municipality shall be exercised and performed by such board or department; and all the acts herein required to be done by the clerk of such municipality, shall be done and performed by the clerk of the board or boards, department or departments, thereof, in which the power to build sewers is vested; and where, in any municipality affected by this act, the power to issue bonds and disburse moneys is vested in any particular board or department having the management and control of the finances of said municipality, the powers and duties herein vested in and imposed upon such municipality in sections ten and eleven of this act, shall be exercised and performed by such board or department.]

Proceedings, &c., not invalidated by reason of any commissioner being interested in lands.

287. SEC. 8. That in case any drainage area established or that may be established by said commissioners shall include lands in which any commissioner is, or at the time of his appointment was interested as owner or otherwise, the proceedings, report, maps, plans and estimates made and filed by said commissioners, shall not be deemed to be invalidated thereby, but shall be as valid and effectual as if all of said commissioners were or had been disinterested in such proceedings, but from and after the filing of such report, maps, plans and estimates, the place of any commissioner interested as aforesaid shall be deemed and taken to be vacant and a new commissioner shall be appointed in his place by the body or board making the original appointment; but said commissioner interested as aforesaid shall be entitled to and receive the compensation provided for in the act to which this is a supplement, from the municipality which appointed him.

288. SEC. 9. That after the confirmation of the final assessment for any sewer constructed under the provisions of this act, the said commissioners shall so fix and determine the proportion of the total cost and expense which such municipality shall bear and pay, that the amount to be borne by each municipality shall be in the same proportion to the total cost of the improvement as the sum of the assessment for special benefits therein bears to the aggregate special benefits assessed for the improvement; and if it shall appear that any municipality has contributed more towards the cost of the improvement than its fair proportion thereof, the excess thereof shall be forthwith repaid to it by the other municipality or municipalities, and the said commissioners shall fix and adjust the amount so to be paid back, having due regard to the proportions aforesaid.

Commissioners to fix and determine cost and expense to be borne by each municipality.

289. SEC. 10. That no writ of certiorari or other writ or process shall be allowed or granted to review the assessment for any sewer constructed under the authority of the act, unless such writ or process be applied for within three months after the confirmation of such assessment.

When writ of certiorari not to be allowed.

290. SEC. 11. That after the completion of any sewer constructed under the authority of this act, the same shall be maintained and kept in repair, with all its appurtenances, at the joint expense of all the municipalities using the same.

Sewers, by whom maintained.

291. SEC. 12. That it shall be lawful for the said commissioners to include within any drainage area established by them, all lands which are without sewerage and which in the judgment of said commissioners can be conveniently drained and sewered by the sewer proposed to be constructed by them, notwithstanding such lands may have been heretofore included within the limits of the drainage area of some other main sewer and assessed therefor; and in case the said commissioners shall include any such lands in their drainage area, such land shall therefor be discharged from any prior assessment for a main sewer imposed thereon, and in case any such assessment shall have been paid the assessment so paid shall be refunded by the municipality to which the same was paid or may be deducted from any assessment imposed on such lands for a sewer constructed under the provisions of this act.

What lands shall be included in drainage area.

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

Repealer.

Supplement.

Approved March 22, 1892.

P. L. 1892, p. 159.

293. SEC. 1. That the eighth section of an act entitled "An act providing for sewerage in and by adjoining cities, towns and townships," approved April twenty-first, one thousand eight hundred and eighty-seven [see Secs. 268 and 278, *ante*], be amended so as to read as follows:

[That the said commissioners shall have power to take any lands that in their judgment may be necessary for the building or construction of such sewer, upon paying to the owner or owners thereof the fair value of the lands taken, and of the improvements thereon, and the damage done to any lot, tract or parcel, tenement or building, by taking part of it for such purpose; and any person whose lands and property was or may be injuriously affected by the location of the outlet of said sewer shall be entitled to have and receive a just compensation for such injury, which damage and compensation shall be ascertained and determined by the said commissioners, and the money necessary to pay the same shall be advanced and paid by the said municipalities on the order of said commissioners in the proportion provided in and by the report of the commissioners.]

Commissioners to take lands for construction of sewer upon paying owners for same and for damages.

294. SEC. 2. That in case the said commissioners shall be unable to agree with the owner or owners of any lands required in their judgment to be taken for such sewer, or when, by legal incapacity or absence of such owner or owners, no such agreement can be made, a particular description of the lands so required for the use of such sewer, including therein the lands necessary for the maintenance and operation of the same, shall be

Proceedings for appointment of commissioners in condemnation.

MUNICIPAL CORPORATIONS.

given, in writing, under oath or affirmation, of some engineer or proper agent of the commissioners, and also the name or names of the occupant or occupants, if any there be, and of the owner or owners, and their residence, if the same can be ascertained, to one of the justices of the supreme court of this state, who shall cause such commissioners to give notice thereof to the persons interested, if known, and in this state, or if unknown, or 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 in condemnation herein 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 said sewer is to be constructed, commissioners in condemnation to examine and appraise the said lands so required to be taken for the construction and maintenance of said sewer, and to assess the damages, upon such notice to be given to the parties 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 in condemnation (having first taken and subscribed an oath or affirmation before some person duly authorized to administer oaths, to faithfully and impartially 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 lands, and to make a just and equitable appraisal of the value of the same, and an assessment of damages to be paid by the said commissioners appointed for the construction of said sewer, for such lands 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, together with the aforesaid description of lands so required and taken, and the appointment, and oaths or affirmations aforesaid in the clerk's office of the county in which the lands are situate, to remain on record therein, and thereupon, and on payment, or tender of payment, of the amount awarded, as hereinafter provided, the said commissioners appointed to construct said sewer are hereby empowered to enter upon and take possession of said lands for the purposes aforesaid, and the said report or 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 said commissioners appointed to construct said sewer, and of the various municipalities contributing to the expense thereof, to have, hold, use, occupy, possess and enjoy the said lands, 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 municipalities so to be drained, in case said commissioners shall neglect or refuse to pay the same for twenty days after demand made therefor upon them; and the said justice of the supreme court shall, upon application of either party, upon reasonable notice to the others, allow and tax such costs, fees and expenses to the commissioners in condemnation, clerks and other persons performing any of the duties prescribed in this section, as he shall think equitable and right, and the same shall be paid by said commissioners of construction, and charged as an expense of the building of said sewer; *provided, always*, that should the said commissioners of construction or the owner or owners of any of the lands so taken feel aggrieved with the decision of the commissioners aforesaid, they may appeal to the next circuit court within the county in which the said lands may be situate.

Commissioners to appraise value and assess damages.

Supreme court justice to allow costs, fees and expenses.

Proviso.

Appeal to circuit court.

295. 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 circuit court, and filed with the clerk of said circuit court, wherein the lands appraised by the said commissioners in condemnation shall be, and notice in writing of said 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 formed 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 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 lands so 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 in favor of said owner or owners, and the amount so fixed and awarded by said jury shall be paid by said commissioners of construction as a part of the expense of the construction of said sewer; but if the said jury shall be applied for by the owner or owners and shall find a less sum than the said commissioners of construction shall have offered, or the said commissioners in condemnation shall have awarded, then costs shall be paid by the said applicant or applicants, and the same shall be deducted out of the said sum found by the said jury, but such application shall not prevent the commissioners of construction from taking the said land upon filing the said report of the commissioners of condemnation aforesaid; *provided*, that in no case whatever shall said commissioners of construction enter upon or take possession of any land of any person or persons whatsoever for the purpose of actually constructing said sewer or otherwise appropriating said lands to the use of said commissioners, until they have paid to the party or parties entitled to receive the same the amount assessed by the commissioners in condemnation as the value of such land or damages in case the report of the commissioners is not appealed from, or if the same be 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, shall refuse upon tender thereof being made to receive the same, 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 the lands lie shall be deemed a valid and legal payment.

Jury trial.

When costs to be paid by appellants.

Proviso.

296. 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.

An act authorizing towns and townships in certain cases to construct sewers in, over or across the streets of adjoining municipalities.

Approved March 21, 1888.

P. L. 1888, p. 186.

297. SEC. 1. That when any town or township in this state, the council or governing body of which has authority to build or construct sewers, is so situated that any section of such town or township has no immediate outlet for sewerage or drainage, except through or across the territory of an adjoining municipality, it shall be lawful for the council or governing body of such town or township to build and construct, in connection with and as part of, any main sewer in process of construction or proposed to be laid or built in such town or township, an extension or outlet sewer in, through and across the streets and highways of such adjoining municipality, in such manner, and to such point or place of discharge, and upon such terms and conditions as shall or may be mutually agreed upon by the council or governing body of such town and the proper municipal board of such adjoining municipality; and all cost and expenses attending the construction of such extension or outlet sewer shall, for the purpose of assessment, be included in and form part of the cost of the main sewer in connection with which it shall be built; *provided*, that any such sewer shall not be so constructed as to at any time empty or discharge any of its contents into any 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 or reservoir of any city, town, township or municipality of this state.

Any town or township may, in certain cases, build sewer through an adjoining municipality.

Cost.

Proviso.

An act to authorize towns and villages to construct sewers and drains, and to provide for the payment of the cost thereof.

P. L. 1890, p. 310.

Towns and villages may provide general system of sewerage and drainage.

Approved May 12, 1890.

298. SEC. 1. That it shall be lawful in any town or village in this state which has been incorporated under any general or special law of this state, whether the powers granted have been vested in a board of commissioners having, among other powers, the charge and control of the public streets of such town or village, or in any other governing body or board, for the board of commissioners, or other governing body or board, of any such town or village, to order and cause, by contract or otherwise, sewers and drains to be constructed in any part of such town or village, and to provide, maintain and alter a general system of sewerage and drainage for such town or village, 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 town or village, for sewerage and drainage from such town or village, and to repair and cleanse such sewers and drains.

Upon petition, resolution of intention to construct sewer may be adopted.

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

Notice to be advertised.

When owners of majority of lineal frontage object, proceedings to cease.

Board may adopt ordinances for construction of sewers, &c.

Board may apply to judge for appointment of commissioners to estimate and assess benefits.

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

Vacancies, how filled.

Commissioners to take oath.

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

Commissioners to meet and give notice.

May examine witnesses, &c.

Assessments not invalidated for failure to ascertain names of owners.

302. SEC. 5. That after having given opportunity as aforesaid for a public hearing of the persons in interest, and having viewed the premises likely, in their judgment, to be benefited by the construction of such sewer or drain, the said commissioners shall make a report in writing of their estimates and assessments to the judge of said court, accompanied by a survey and map to be prepared under their direction by a civil engineer, to be appointed by the board of commissioners or other governing body or board of such town or village, showing the lots or parcels of land and real estate peculiarly benefited by such sewer or drain; the said report shall state the cost of the whole work, including in such cost all necessary expenditure for engineers, plans, salaries, legal fees and charges and such other incidental expenses as in the proper prosecution of the work may be necessarily incurred; the portion, if any, assessed upon the town or village at large, and shall give the names, so far as ascertained, of the owners of said lots or parcels of land and real estate and the amount of the assessment to each owner for each of such lots or parcels of land and real estate for the said benefits; which assessment shall, in each case, be in proportion, as near as may be, to the advantage which each of such owners shall be deemed to have acquired by the construction of such sewer or drain; in case the costs and expenses of such work shall exceed the amount of benefits, the expense thereof shall be paid by the town or village 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.

Commissioners to make report.

303. SEC. 6. That upon the coming in of any such report, signed by the said commissioners, or any two of them, the judge of said court shall cause such notice to be given as it shall deem proper of the time and place of hearing any objections that may be made to such assessment, and after hearing any matter that may be alleged against the same, the judge of said court, either by rule or order, shall confirm the said report, or shall refer the same to the same commissioners for revision and correction, or to new commissioners to be appointed by him, forthwith to reconsider the subject-matter thereof; and the said commissioners to whom such report shall be referred by the court shall return the same corrected and revised, or a new report to be made by them in the premises, to the said court, without unnecessary delay, and the same being so returned shall be confirmed or again referred by the judge of said court in the manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned in the premises which the said court shall confirm; such report, when so confirmed, shall be final and conclusive, as well upon the said town or village as upon the owners of any lands and real estate affected thereby; the said court shall thereupon cause a certified copy of such report and the accompanying map to be filed in the office of the clerk of the county in which said town or village shall be located, and said clerk shall transmit a certified copy of the report and rule or order of said court confirming the same, and also a certified copy of the map accompanying the same, to the treasurer of such town or village.

Notice to be given of hearing objections to report.

Judge may confirm, reject or refer report to commissioners for revision and correction.

Confirmation of report final and conclusive.

Copy to be filed.

Limitation of time for allowing writ of certiorari.

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

Assessments to be a first lien on lands.

305. SEC. 8. That all assessments made under the provisions of this act shall be and remain a first lien upon the lands and real estate affected thereby, notwithstanding any error or omission in stating the name or names of the owner or owners of such 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 interest at the rate of six per centum per annum.

Board authorized to issue temporary improvement certificates.

306. SEC. 9. That the board of commissioners, or other governing body or board, 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.

Board to furnish assessor a statement of amount required to be paid by town or village.

307. SEC. 10. That it shall be the duty of the board of commissioners, or other governing body or board, of any such town or village where the general taxes levied and collected within the town or village are assessed, levied and collected by the township officers of the township within the limits of which such town or village is located, to furnish yearly, before the twentieth day of August in each year, to the tax assessor of such township, a statement in writing signed by the president or treasurer of such board, or other governing body, setting forth, first, the amount required to be paid by such town or village at large, on account of any such improvement in the next preceding fiscal year, over and above the total amount of the assessment made against the land and real estate particularly benefited; and the said assessor shall assess such amount against the real and personal estate of the resident and non-resident property-owners within the limits of such town or village, in the same manner that the general township taxes are levied and collected, and the same when levied and assessed shall be collected by the township collector, and as fast as collected shall be paid over by the collector of the said township to the treasurer of the said board of commissioners, or other governing body or board, who shall apply the same exclusively to the payment of the amount required to be paid by the town or village at large for such improvement, or to the payment of any temporary indebtedness incurred

Assessor to assess amount.

What statement to contain.

by the said town or village therefor; the said written statement to be furnished by the said president or treasurer shall, in the second place, show the names of the persons and a short description of the lands against which an assessment for benefits has been made by the commissioners appointed for that purpose, and also the amount that will be required to be collected from each of the said parcels or lots of land, respectively, to provide for the payment of the assessment bonds issued under this act and maturing during the succeeding year, or to provide for the payments of any certificates, temporary or otherwise, issued by the said board of commissioners or other governing body or board under this act; and upon receiving this statement, it shall be the duty of the said assessor to levy the respective amounts contained in such statement upon the lands respectively mentioned therein, and the assessment may be made against said lands in the name of the owner thereof if the same can be ascertained; and if default be made by any person so assessed, either generally or specially, as provided in this section, it shall be the duty of the collector of the township to return such unpaid taxes or assessment to the office of the clerk of said county, in the same manner that other general taxes are returned, and the same proceedings may be taken to enforce the collection of the same as are now provided by law for the collection of general taxes; *provided, however,* that when any lands shall be sold against which an assessment for benefits

Duties of assessor and collector.

Proviso.

may be returned, the same shall be sold free and clear of all incumbrances, and the title thereto shall become an absolute title in fee-simple to any purchaser after the expiration of two years from the date of the certificate of such sale issued by the collector of said township, in the same manner that certificates of sales are now issued where lands are sold to raise and pay taxes assessed and levied under the general laws of this state; and all proceedings under this act to sell lands to pay such assessments shall be carried on in the same manner and subject to the same rules observed and provided in this state for making the general taxes a first lien upon real estate and providing for the sale of the same, except as herein otherwise provided.

308. SEC. 11. That in all towns or villages of this state having, by their act of incorporation, power to levy and collect the annual taxes, it shall be the duty of the board of commissioners or other governing body or board of any such town or village to incorporate in the annual tax levy, in each year, such amount as shall be required to be paid by such town or village at large, or on account of any such improvement made, in the next preceding fiscal year, over and above the total amount of the assessment made against the lands and real estate peculiarly benefited; and the same shall be raised by general taxes, and the moneys received for assessments, and the moneys so raised by the general tax for the purpose aforesaid, shall be raised for and exclusively applied to the payment for such improvement, or to the payment of any temporary indebtedness incurred by the said town or village therefor, or for any bonds or certificates that may be issued as in this act provided.

Amount required to be paid to be incorporated in annual tax levy.

Moneys raised, how applied.

309. SEC. 12. That the board of commissioners or other governing body or board of any such town or village shall order an election to determine whether bonds shall be issued to procure money for the payment of the cost and expenses of the proposed improvement, and shall designate the time and place for holding the same, and appoint judges and inspectors thereof; the polls shall be open from ten o'clock in the forenoon until three o'clock in the afternoon, and every person who is now authorized to vote at the corporate election in such town or village, by its act of incorporation, may vote at such election; on the tickets voted at such election shall be printed or written, "for the issue of bonds," or "against the issue of bonds," and the judge and inspectors shall certify the result of said election to the clerk of the county in which such town or village is situated.

Election to be held to determine whether bonds shall be issued.

Form of ballot.

310. SEC. 13. That if there shall be a majority of votes cast in favor of the issue of bonds it shall then be lawful for the board of commissioners or other governing body or board of such town or village to issue registered or coupon bonds of said town or village, such issue being hereby expressly authorized for the purpose of providing funds to pay for such improvements; the bonds may be made payable at times to be therein specified, not more than twenty years after date, but so that an equal amount shall fall due each year after the first, the rate of interest not to exceed six per centum, and the denominations to be fixed by the board of commissioners or other governing body or board issuing the same; the bonds shall be of two classes, namely, "assessment bonds," which shall be paid out of assessments for benefits, made by the commissioners appointed for that purpose, against lands benefited, and "sewer bonds," which shall represent the cost of the improvement above the amount assessed for benefits.

When bonds may be issued.

311. SEC. 14. That any landowner whose lands may be subject to an assessment for benefits derived from the construction of such sewer may have his lands released at any time by paying to the treasurer of such board of commissioners, or other governing body or board, the full amount assessed against his property, with interest at six per centum; it shall be the duty of the county clerk to file in his office the receipt of the treasurer of the board of commissioners, or other governing body or board, for any such payment; and also to enter upon the assessment list and map a short memorandum, showing that the assessment against such landowner and lands has been paid, and thereafter such lands shall be free from the lien of such assessment and shall not be liable to any assessment or tax to raise money to provide for the payment of the assessments against

Owners may have lands released upon payment of assessment.

any other property, or the bonds mentioned in this act as "assessment bonds," but shall remain liable for any tax that shall be levied to provide for the payment of that part of the cost which is charged to the town or village at large, or for the payment of any certificates or bonds issued therefor.

Proceedings for payment of cost when voters decide against issuing bonds.

312. SEC. 15. That if a majority shall at such election vote against the issue of bonds, then the said board of commissioners, or other governing body or board, shall have power to issue certificates to pay for the cost of such work; such certificates shall bind the land assessed for benefits, and be a lien upon the same to the extent that each lot or parcel may be assessed as hereinbefore provided; and the same shall be a paramount lien upon said lands, respectively, until the amounts due from each of the respective owners shall be paid, and the record of the assessment canceled as herein provided; in issuing such certificates the board of commissioners, or other governing body or board, may also include the amount of any damages assessed against the town at large, but such certificates shall be distinguished from those issued to represent the amount assessed for benefits; and the whole issue of certificates shall be divided into three classes: one-third to mature in one year, one-third in two years, and one-third in three years; and to provide for their payment it shall be the duty of the township assessor to assess and levy the tax for the same in the manner herein provided, for the payment of bonds, certificates or other indebtedness incurred for such improvement.

Compensation of commissioners.

313. SEC. 16. That there shall be paid to each commissioner of assessment three dollars for every day he shall be actually engaged in the performance of the duties herein required of him; and they shall also have authority to employ a secretary at a cost of not over two dollars for each day he may be employed.

Acceptance or rejection of this act to be submitted to voters.

314. SEC. 17. That the board of commissioners, or other governing body or board, of any town or village in this state, shall, by resolution, submit the question of the acceptance or rejection of this act to the vote of any such town or village at a special election to be held for that purpose, whereof at least ten days' previous notice shall be given by public advertisement in at least two of the newspapers published and circulating in said town, if there be so many; the resolution shall fix the time and place for holding such election, and the said board or governing body shall appoint inspectors of the election, who shall hold the same as provided by said resolution, and return the result thereof to the said board; each ballot deposited by those who favor the acceptance of this act shall contain the words "the sewer act accepted," written or printed thereon, and those opposed shall each deposit a ballot with the words "the sewer act rejected," written or printed thereon, and if a majority of the ballots so cast shall be found to be for the acceptance of this act, it shall then (but not otherwise) go into effect and be binding upon said town or village; those persons who are qualified to vote at the annual municipal, town or village election for the election of the officers of any such town shall be qualified to vote at the election provided for in this section.

Form of ballot.

Who entitled to vote.

An act for the construction, maintenance and operation of systems of sewerage in cities, towns and boroughs.

P. L. 1890, p. 457.

Approved June 13, 1890.

Corporations may be formed to construct and operate systems of sewerage.

315. SEC. 1. That any number of persons not less than seven, a majority of whom shall reside in this state, may form a company for the purpose of constructing, maintaining and operating a system of sewerage in any city, town or borough in this state, for the purpose of supplying said city, town or borough and the inhabitants thereof with an adequate means of disposing of sewerage.

How corporation shall be organized.

316. SEC. 2. That such persons desirous of forming a company for such purpose shall make, sign and acknowledge, before some officer authorized to take such acknowledgment of deeds, a certificate in writing, which shall state the corporate name adopted by the company, the amount

of the capital stock, the term of its existence, the number of directors, the names of those who shall manage the affairs of the company for the first year, or until their successors are elected and qualified, and the name of the city, town or borough in or for which such sewerage system is to be constructed and the business of the company carried on; such certificate shall be filed in the office of the secretary of state, together with the consent in writing of, and the terms and condition or conditions upon which the consent has been granted by, the corporate authorities, if any, of the city, town or borough in which such sewerage system is to be constructed; *provided, however*, that the corporate authorities of any city, town or borough shall not give said written consent unless a petition shall have been presented requesting the granting of such consent, which petition shall have been signed by the owners of real estate in said city, town or borough, to the number of at least one-half of the number of persons who shall have been assessed as owners of real estate in such city, town or borough in the last preceding municipal assessment for taxes. [See Sec. 330, *post.*]

317. SEC. 3. That when such certificate, conditions and consent shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate, and shall have power as such to build, erect, alter, repair, enlarge and maintain all necessary works and apparatus within or without said city, town or borough, and to lay down all such pipes and conduits for sewerage at such times and in such places as shall be necessary and proper to enable said corporation to carry into effect the purposes of its incorporation.

Incorporation effected on filing certificate.

318. SEC. 4. That it shall be lawful for such corporation to enter upon any and all lands in the neighborhood of the borough, town or city which it is intended to supply with such system of sewerage, and to make all such preliminary examinations, explorations, measurements and levelings as may be necessary and proper for its corporate purposes, doing thereby as little damage as possible to the owner or owners.

Corporation may enter on lands for purpose of examination, &c.

319. SEC. 5. That in case said corporation cannot agree with the owner or owners or other persons interested in any lands which said corporation may desire to take, use and occupy, as to the amount of compensation to be paid to such owner or owners for such taking, use or occupation, it shall be lawful for any justice of the supreme court of this state, upon application by said corporation, and upon two weeks' previous notice, served in person or by leaving at the dwelling-house or usual place of abode of such owner or owners, or in case of absence from the state or legal disability, published in at least two official newspapers published nearest to the lands in question, to appoint three disinterested commissioners, resident of the county in which said lands are situated, to assess and ascertain the value of the lands so proposed to be taken, used and occupied, and the damages to be done to any lands by the laying down of such pipes and erection and maintenance of such works; which commissioners shall appoint a time and place at which they shall meet to execute the duties of their appointment, and shall cause two weeks' notice thereof to be given to the parties interested therein, either by personal service or by publication in at least two official newspapers published in the county where such lands may lie; at which time and place the said commissioners shall meet and view the premises and hear the parties interested, and take evidence, if any be offered, and for that purpose shall have power to administer oaths or affirmations, and to adjourn from day to day, and in case of the refusal or failure of either or any of said commissioners to attend and perform their said duties, the said judge shall have power to appoint another or other disinterested person or persons as commissioners to act in the place of such absent commissioner or commissioners; and the said corporation shall make and exhibit to the said commissioners at their meeting aforesaid, for the use of the parties interested, a statement and description in writing, or by drawings or maps, or both, of the lands by them sought to be taken as aforesaid, and of the use, occupation of and excavations upon any lands by them sought to be made; and the said commissioners shall thereupon

Proceedings for condemnation of lands.

ascertain and assess the value and damages aforesaid, and shall execute under their hands and seals, or the hands and seals of a majority of them, an award to said corporation of the lands, rights and privileges by them sought in the statements and description aforesaid, stating therein the amount of damages and compensation therefor by them assessed in favor of such owner or owners, which award shall be by them acknowledged and filed in the county clerk's office, and by him recorded in the registry of deeds.

Payment of damages awarded to be made before taking possession.

320. SEC. 6. That before taking possession of any such lands or entering thereon for the purpose of making any excavation or occupation thereof, the said corporation shall pay or tender to such owner or owners, or, in case of absence from the state or legal disability, shall deposit with the clerk of the circuit court of said county the amount of damages so awarded; and the award of said commissioners, and the payment or tender or deposit as aforesaid of such damages, shall vest in said corporation the lands, rights and privileges by them sought, described and set forth in said statement and description, in all respects the same as if the same had been conveyed to said corporation by said owner or owners under their hands and seals.

Appeal from award.

321. SEC. 7. That if either party feel aggrieved by said assessment and award, such party may appeal to the next or second term of the circuit court of said county, by petition and notice thereof, served upon the opposite party two weeks prior to such term, or published a like space in at least two official newspapers published nearest the lands in question, which petition and notice, so served or published, shall vest in said court full power to hear and determine said appeal, and if required they shall award a venire for a jury to come before them, who shall hear and finally determine the issue under the direction of the court, as in other trials by jury, and it shall be the duty of the said jury to assess the damages to the said lands as above mentioned, and the value of such as shall be absolutely taken; and said court shall have power to order a struck jury, or a jury of view, or both, to try any such appeal; and, also, to order any jury which may be impaneled and sworn to try any such appeal to view the premises in question during said trial, and the right of said corporation to appeal from and dispute the correctness of any award shall not be waived or taken away by the paying or tendering the amount of the award and taking possession of the land or exercising the rights covered by such award; and the right of any owner of any such lands or rights in like manner to appeal shall not be waived or lost by the acceptance of the amount so awarded when tendered; and upon the final determination of any such appeal the said court shall render such judgment in favor of the one party and against the other as the right and justice of the case shall require, and shall award to the party substantially succeeding and prevailing in said appeal his, her or their costs of said appeal against the opposite party, and shall have power to enforce the judgment so rendered by execution as other judgments are enforced, and, also, by summary proceedings and attachments for non-payment thereof.

Struck jury or jury of view.

Business of corporation, how managed.

322. SEC. 8. That the business of said company shall be managed by a board of directors of not less than five, who shall be stockholders therein, and a majority of whom shall be residents of this state; and a majority of directors chosen shall be a quorum; and there shall be an election of directors within one year from the filing of the articles of association, and annually thereafter, at such time as shall be fixed by the by-laws of such company; three weeks' notice thereof shall be given by publication in at least two official newspapers, if so many there be, in general circulation in such city, town or borough; the stockholders shall be entitled to vote either in person or by proxy.

Election of directors.

Stockholders may vote by proxy.

Officers and their election.

323. SEC. 9. That the officers of such company shall be a president, who shall be one of the directors, a secretary and treasurer, and such other officers, agents and servants as the board of directors shall deem necessary; such officers shall be elected annually by the directors, and shall be required to give bond, with penalty and surety, to be approved of by said board of directors, conditioned for the faithful discharge of their respective duties.

324. SEC. 10. That the amount of the capital stock shall be fixed by the company, but may be increased by a vote of the stockholders at any annual meeting, and such capital stock be divided into shares of not more than one hundred dollars each.

Capital stock, how fixed.

325. SEC. 11. That if any person or persons shall willfully do or cause to be done any act or acts whatever, thereby to injure any conduit, pipe, cock, machine or structure whatsoever, or anything appertaining to the works of said corporation, whereby the same may be stopped, obstructed or injured, the person or persons so offending shall be considered guilty of a misdemeanor, and, being thereof convicted, shall be punished by fine not exceeding three hundred dollars, or imprisonment at hard labor not exceeding two years, or both; *provided*, such criminal prosecution shall not in anywise impair the rights of action for damages by a civil suit, hereby authorized to be brought for any such injury, as aforesaid, by and in the name of said corporation, in any court of this state having cognizance of the same.

Penalty for injury to works of corporation.

Proviso.

326. SEC. 12. That upon application to the corporate authorities of any such city, town or borough for the consent of such authorities as provided in section two of this act, said authorities may, by ordinance, provide that such consent shall be conditioned upon the prepayment to said city, town or borough of a specified sum of money or upon the quarterly, semi-annual or annual payment to said city, town or borough of specified sums of money, or upon payment of specified quarterly, semi-annual or annual percentage of the gross receipts of the corporation to be formed pursuant to such consent; and said corporate authorities shall annex to such consent the maximum prices or rents that may be charged property-owners or others for the use of such sewerage system, and any further or other terms and condition or conditions upon which said consent is granted; if the certificate referred to in section two hereof be filed, there shall be annexed thereto and filed therewith a copy of the terms and condition or conditions upon which such consent is granted, and such filing shall be conclusive evidence that said corporation has assented to said terms and condition or conditions, and the same shall be deemed and taken to be binding and operative upon said corporation, its successors and assigns.

Consent of corporate authorities may be granted on conditions.

Rents to be charged.

Terms and conditions to be filed.

327. SEC. 13. That such company be and they are hereby fully authorized and empowered to lay their pipes beneath such public roads, streets, avenues and alleys as they may deem necessary for the purposes aforesaid, upon complying with the terms and condition or conditions upon which the consent of the corporate authorities shall have been obtained; *provided*, that the said pipes shall be laid at least three feet below the surface of the said roads, streets, avenues or alleys, and shall not in anywise unnecessarily obstruct or interfere with public travel or damage public or private property; *and provided*, that the consent shall be obtained of the corporate authorities, if any there be, of any city, town or borough through which the same may be laid; *provided, however*, that no consent shall be granted by the corporate authorities, to such company to lay their pipes beneath such public roads, streets, avenues or alleys for the purposes aforesaid until a map and specifications of the proposed system of sewerage shall have been submitted to the state board of health and to the corporate authorities of any such city, town or borough in which such system of sewerage is proposed, and the map and specifications shall have been approved by them.

Corporation may lay pipes in streets, &c.

328. SEC. 14. That said company may contract with property-owners and others for the use of said system of sewerage for such price or prices, or quarterly or annual rents, and such restrictions as said company may think proper; *provided*, that the same shall in no case exceed the maximum rates which may be named in the terms and condition or conditions on which the consent of the corporate authorities shall have been obtained.

Company authorized to contract with property-owners.

Proviso.

329. SEC. 15. That such company shall commence the construction of the proposed system of sewerage within six months from the date of their organization, and shall complete the same within three years from the

Time of commencement and completion of construction

Proviso. date of commencement ; *provided*, that pursuant to section twelve of this act, the conditions to be annexed to the consent of the corporate authorities may designate a shorter period for the completion of such works.

Supplement.

P. L. 1891, p. 429.

Approved April 16, 1891.

Requisites of certificate of incorporation.

Certificate to be filed.

330. SEC. 1. That the second section of the act of which this is amendatory be amended to read as follows ; *provided, however*, that the provisions of this supplement shall apply only to cities of the third class in this state :
 [That such persons desirous of forming a company for such purposes, shall make, sign and acknowledge, before some officer authorized to take such acknowledgment of deeds, a certificate in writing, which shall state the corporats name adopted by the company, the amount of the capital stock, the term of its existence, the number of directors, the names of those who shall manage the affairs of the company for the first year, or until their successors are elected and qualified, and the name of the city, town or borough in and for which such sewerage system is to be constructed and the business of the company carried on ; such certificate shall be filed in the office of the secretary of state, together with the consent in writing of, and the terms and condition or conditions upon which the consent has been granted by the corporate authorities, if any, of the city, town or borough in which such sewerage system is to be constructed.] (a)

An act to allow towns, villages or other municipal corporations to acquire and use lands or real estate in an adjoining township or other municipal corporation for use for the construction of a sewage receptacle or sewage disposal works.

P. L. 1892, p. 452.

Approved April 9, 1892.

Towns, villages or other municipal corporations may acquire lands to be used as a sewage receptacle, &c.

When lands for such receptacle, &c., are in an adjoining township, its consent must be had.

Proviso.

Repealer.

331. SEC. 1. That it shall be lawful for the governing body of any town, village or other municipal corporation in this state to secure, by purchase or condemnation, or otherwise, in any township or other municipal corporation, such land or real estate as may be necessary for the erection or construction of any sewage receptacle or works or place for treating or disposing of the sewage or house waste of the town, village or other municipal corporation in which a system of sewers has been or may hereafter be constructed. (b)

332. SEC. 2. That it shall be lawful for the governing body of any town, village or other municipal corporation in this state, when it has heretofore secured or may hereafter have secured such land or real estate in an adjoining township, for the purpose mentioned in section one of this act, to proceed to the work of preparing or of having prepared, such land or real estate for the disposal of the sewage or house waste of such town, village or other municipal corporation, and to use such land or real estate for the purpose designated, when they have secured the consent by resolution of the township committee or other governing body of the township or other municipal corporation within whose boundaries such lands are located ; *provided, however*, that the resolution granting the consent herein provided for, before being operative, shall have received the votes of a majority of the members of the township committee or other governing body of the township or other municipal corporation within which such disposal works or other sewage receptacle or receptacles are proposed to be located, but nothing in this act contained shall apply to sewage receptacles or works used in connection with or as a part of any outlet for sewage to tide-water.

333. SEC. 3. That all acts or parts of acts inconsistent with, or not conforming to the provisions and requirements of this act, be and the same are hereby repealed in so far as their operation may conflict with this act.

(a) This supplement is unconstitutional, being special legislation respecting municipalities. *Tyler v. Plainfield*, 25 Vr. 529.

(b) See *Milburn v. South Orange*, 26 Vr. 254.

An act to provide for the payment of the cost of sewers heretofore constructed without authority of law in boroughs and borough commissions.

Approved April 4, 1894.

P. L. 1894, p. 45.

334. SEC. 1. That whenever, within the limits of any borough or borough commission of this state, there has heretofore been constructed under any contract entered into with the common council or other governing body of such borough or borough commission, a sewer, which has in fact been accepted by such common council or other governing body and for the construction of which there existed, at the time of entering into such contract, no statute or law authorizing said common council or other governing body to make such contract or to pay the cost of the construction of such sewer out of the general funds of such borough or borough commission, it shall be lawful for the common council or other governing body of such borough or borough commission within the limits of which such sewer may have been constructed, and they are hereby required, to pay the contract price for such construction together with interest at six per centum per annum upon such contract price from the date when it became due, to the person who constructed such sewer, his executors, administrators or assigns.

Governing body of borough or borough commission to pay contract price of sewer constructed without authority of law.

335. SEC. 2. That in order to raise the moneys necessary to make such payment as aforesaid it shall be lawful for said common council or other governing body of such borough or borough commission, to issue the bonds of such borough or borough commission, to run for a period of not more than ten years, of such denomination as the said common council or other governing body may deem proper, and bearing interest at a rate not exceeding six per centum per annum and payable at such place as the said common council or other governing body may determine; which bonds may be negotiable and sold for any sum not less than par, and the proceeds thereof used to make payment for the cost of constructing such sewer and interest as aforesaid and for no other purpose.

Bonds may be issued.

336. SEC. 3. That if, in the judgment of the said common council or other governing body, the construction of such sewer is likely to benefit or increase the value of any lands and real estate in the vicinity thereof, or has benefited or increased the value thereof, the said common council or other governing body shall apply to the circuit court of the county wherein such borough or borough commission is situate, for the appointment of three 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 borough or borough commission, 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 disinterested commissioners, who shall be freeholders and residents of the county but not residents of the borough or borough commission 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.

Commissioners to be appointed to assess benefits.

337. SEC. 4. That 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 shall take and subscribe oath.

338. SEC. 5. That 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 attend and shall give a public hearing to those persons in interest who may desire to be heard; the said commissioners

Proceedings by 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 deem necessary, and to adjourn from time to time at 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 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.

Form and nature of commissioners' report.

339. SEC. 6. That after having given opportunity as aforesaid for a public hearing of the persons in interest, and having viewed the premises likely, in their judgment, to be benefited by the construction of such sewer, 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 a practical surveyor or engineer, under their direction, showing the lots or parcels of land and real estate peculiarly benefited by such sewer; the said report shall state the cost of the whole work, the portion, if any, assessed upon the borough or borough commission 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; in case the costs and expenses of such work shall exceed the amount of said benefits, the excess thereof shall be paid by the borough or borough commission 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.

Excess of costs over benefits to be paid by tax.

Proceedings on coming in of report.

340. SEC. 7. That 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 borough or borough commission as upon the owners of the 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 clerk of said borough or borough commission, 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 borough or borough commission charged with the duty of collecting assessments for improvements.

Limitation of time for allowing writ of certiorari.

341. SEC. 8. That no certiorari shall be allowed in 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 shall be first lien on lands.

342. SEC. 9. That all assessments made under the provisions of this act shall be and remain a first lien upon all the lands and real estate affected thereby from the time of the confirmation of the report by the court as

aforesaid, notwithstanding any error or omission in stating the name or names of the owner or owners of any lot or parcel of such land or real estate, in the same manner and to the same extent that taxes are liens upon lots or tracts of land in such borough or borough commission, which assessments shall bear interest at the rate of six per centum per annum, and shall become due and payable within six months from the date of such confirmation; *provided, however*, that the owner of any lot or parcel of land so assessed may pay the amount of the assessment imposed upon such lot or parcel of land, if he so elect, in ten equal yearly payments, with interest thereon from the date of the confirmation of the report, at the rate of six per centum per annum, the first payment to become due in six months from the confirmation of said report and the remaining nine payments becoming due at successive periods of one year after the first payment; *provided further*, that if any partial payment shall not be paid when due, then the whole amount of such assessment, with all arrearages of interest, shall forthwith become due and payable; *provided further*, that if the owner or owners of any lot of land in said borough or borough commission shall have heretofore paid any sum of money for or on account of any assessment which may have been imposed upon said lot of land for the construction of said sewer, the said payment so made shall be applied to or credited on account of any assessment which may be made against the said lot of land under the provisions of this act, and any surplus of said money which shall remain after making said appropriation or credit as aforesaid shall be repaid to the said owner or owners who shall have paid the same, or to his, her or their heirs, executors, administrators or assigns, as the case may be.

Payment of assessments may be made in installments.

Proviso.

Proviso.

343. SEC. 10. That the said assessments and all arrearages of interest shall be collected by the sale of the lands upon which the said assessments are imposed, in the same manner that lands now are or may hereafter be sold in such borough or borough commission for the collection of delinquent taxes, under the laws applicable to such borough or borough commission.

Assessments may be collected by sale of lands.

344. SEC. 11. That the provisions of this act shall be applicable to and binding upon any borough or borough commission now in existence whose form of local government may have been altered or modified since the making of any contract under which any sewer may have been constructed and accepted, whether such construction and acceptance were under the supervision of the common council or other governing body existing under the present or the preceding form of local government.

Act applicable to any borough or borough commission now in existence.

345. SEC. 12. That each commissioner performing services under this act shall be entitled to receive from the borough or borough commission five dollars for each day he shall be actually engaged in the performance of the duties required of him.

Compensation of commissioners.

An act to render valid the proceedings of towns and other municipalities in the matter of the construction of sewers and the issuing of bonds to pay for the same.

Approved February 5, 1895.

P. L. 1895, p. 59.

Preamble.

WHEREAS, Some of the towns and other municipalities have proceeded to construct sewers and to issue or provide for the issue of bonds to raise money to pay for the same, and there are grave doubts as to the constitutionality of the laws under which such towns and municipalities have acted, because the said laws are or are claimed to be special; *and whereas*, such towns and municipalities should have the right to finish the construction of such sewers and to issue bonds or to provide for the issuing and sale of bonds for the purposes aforesaid; therefore,

346. SEC. 1. That all the proceedings heretofore taken by the council of any town or municipality providing for the construction of any sewer therein and the issue and the sale, or proposed issue and sale, of any bonds to raise and pay the cost of any such sewer or sewers, shall be and the same are hereby ratified and confirmed, and the said bonds issued and

Town or municipal bonds issued for construction of sewers under unconstitutional laws, validated.

sold, whether delivered or not or to be issued and sold, are hereby made valid and binding obligations upon any such town or municipality as fully and as effectually as if the said proceedings were had and the bonds issued and sold, or to be issued and sold, under an act of this legislature free from all constitutional objections, and the assessments for benefits when made shall be as valid and effectual as if likewise made under an act free from all constitutional objections.

An act to enable towns, villages and municipalities governed by boards of commissioners or improvement commissions to construct sewers through tide-water creeks or water-courses within their corporate limits.

Approved March 6, 1895.

P. L. 1895, p. 169.

Inclosed sewers may be constructed through tide-water creeks in certain towns, villages and municipalities.

Creek may be filled up.

Costs to be assessed on properties benefited.

Costs in excess of benefits to be paid by tax.

Issue of bonds.

Necessary lands may be acquired by condemnation.

347. SEC. 1. That in any town or village or in any municipality governed by a board of commissioners or improvement commission in this state wherein any tide-water creek or water-course now exists into which sewers and drains now empty, it shall and may be lawful for the governing body of any such municipality having the charge and control of sewers in such municipality, whenever they deem the same necessary, to cause to be constructed through such tide-water creek or water-course an inclosed sewer to receive the sewage from the sewers and drains emptying into such creek or water-course, and from such point in such creek or water-course or from such boundary thereof to such point in said creek or water-course, or to such outlet of the same as shall be determined upon as most advisable and expedient, or upon any of the tide-waters or other waters bounding upon such town, village, or upon such municipality governed by commissioners or improvement commission into which the sewers thereof now enter; *and further*, to cause such creek or water-course to be thereupon filled up, and such governing body are hereby invested with full power to locate and construct such sewer in manner aforesaid, together with all necessary drains, pumps, docks, dams, tide-water banks and such other works as they shall deem necessary either upon or across any private lands or other place, with full powers of condemnation of any lands taken for the purposes aforesaid.

348. SEC. 2. That the costs, damages and expenses of such improvement, including the cost of real estate required therefor as hereinafter provided, shall be assessed upon all the property benefited thereby in like manner as the costs, damages and expenses of constructing other sewers constructed by any such municipality are or may be assessed; *provided*, 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, damages and expenses of such improvement, which assessment may be made in connection with an assessment for such lateral sewers, or as an independent assessment.

349. SEC. 3. That the costs, damages and expenses of constructing such improvement, including the cost of real estate acquired therefor, beyond the amount assessed for special and direct benefits, shall be paid by the municipality constructing any such sewer, and such municipality may issue its bonds to the amount not exceeding in the aggregate the total cost of said sewer, and of the lands acquired therefor, in like manner as bonds are issued by such municipality for the payment of the costs, damages and expenses of other sewers constructed by any such municipality.

350. SEC. 4. That when any such improvement shall be located upon any lands 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 and appurtenances, then it shall be lawful for any such municipality as aforesaid to acquire the said land by purchase, or by condemnation; and in case condemnation proceedings are necessary, they shall award the owner or owners of such land just compensation therefor, and for the damages sustained by said landowners over and above any

special benefits derived from said sewer, and shall add the amount of such compensation to the cost of building or constructing such sewer and works; before fixing the compensation in any case, such governing body shall notify the owner or owners of the land sought to be taken for the purpose aforesaid, to the end that such owner or owners may have full opportunity to be heard upon the question of the value of such land; the award or compensation shall be final, unless such governing body reconsider the same and make a new award, or unless said owner or owners within twenty days after notice of the amount fixed as compensation for said land shall, on two days' notice to such governing body, apply to the circuit court of the county wherein such improvement is located for the appointment of three disinterested freeholders residing in said county, to review the assessment for the value of the land to be taken and damages sustained thereby, whose report shall be made to said court within twenty days from and after their appointment, and upon the confirmation by said court of such report and assessment for damages so made as aforesaid by said freeholders, the same shall be final and conclusive, unless either party shall, within ten days after confirmation of said report, appeal to the circuit court of the county, which is hereby invested with full power to direct an issue and try such appeal by jury, and to make such order as may be necessary therein; such award shall bear interest at the rate of five per centum per annum from the date of making the same until paid.

351. SEC. 5. That the money for such improvement as aforesaid may be raised by any such municipality by sale of improvement certificates or temporary loans, or by the bonds of such municipality, the issue and sale whereof for the purpose of this act are hereby authorized.

Improvement certificates may be issued.

V. Water-supply.

An act for the construction, maintenance and operation of water works for the purpose of supplying cities, towns and villages of this state with water.

Approved April 21, 1876.

P. L. 1876, p. 318.

352. SEC. 1. [Amended and supplied by Secs. 368, 371 and 373, *post*.]

353. SEC. 2. That such persons desirous of forming a company for such purposes shall make, sign and acknowledge, before some officer authorized to take such acknowledgment of deeds, a certificate in writing, which shall state the corporate name adopted by the company, the amount of the capital stock, the term of its existence, the number of directors, the names of those who shall manage the affairs of the company for the first year, or until their successors are elected and qualified, and the name of the city, town or village in or for which such works are to be constructed and the business of the company carried on; such certificate shall be filed in the office of the secretary of state, together with the consent, in writing, of the corporate authorities, if any, of the town or city proposed to be supplied with water. (a)

Company organized to operate water works to make certificate and file same, together with consent of corporate authorities.

354. SEC. 3. That when such certificate and consent shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate, and shall have power, as such, to take and divert any and all such springs and streams of water, and build, erect, alter, repair, enlarge and maintain all such reservoirs and works, and lay down all such pipes and conduits for water, at such times and in such places as shall be necessary and proper to enable said corporation to carry into effect the purposes of its incorporation.

When incorporation effected.

Powers.

(a) If a municipal corporation, in granting consent to the organization of a company for constructing water works for the purpose of supplying the town with water, under the provisions of the above act, annex thereto a stipulation for a contract to take water at a specified price for twenty years, having no authority except that derived from the act of March 15th,

1881 (see Secs. 383 and 384, *post*), the stipulation is without authority and void, and the whole proceeding is vitiated thereby. *Davis v. Town of Harrison*, 17 Vr. 79. The consent must be a consent to the formation of the company proposed by certain persons named. *Tyler v. Plainfield*, 25 Vr. 526.

Corporation may enter upon lands, &c.

355. SEC. 4. That it shall be lawful for such corporation to enter upon any and all lands in the neighborhood of the village, town or city which it is intended to supply with water, and to make all such preliminary examinations, explorations, measurements and levelings as may be necessary and proper for its corporate purposes, doing thereby as little damage as possible to the owner or owners.

Proceedings if company and owners cannot agree as to amount of compensation to be paid, &c.

356. SEC. 5. That in case said corporation cannot agree with the owner or owners, or other persons interested in any lands which said corporation may desire to take, use and occupy, or from which they may desire to take or divert, either in whole or in part, any spring or springs, stream or streams of water for the purposes of its corporation, as to the amount of compensation to be paid to such owner or owners for such taking, use, occupation or diversion, it shall be lawful for any justice of the supreme court of this state, upon application by said corporation, and upon two weeks' previous notice, served in person, or by leaving at the dwelling-house or usual place of abode of such owner or owners, or, in case of absence from the state or legal disability, published in a newspaper published nearest to the lands in question, to appoint three disinterested commissioners, resident of the county in which said lands are situated, to assess and ascertain the value of the lands so proposed to be taken, used and occupied, and the damages to be done to any lands by the laying down of such pipes and erection and maintenance of such works, and by the diversion, total or partial, as the case may be, of said springs and streams of water; which commissioners shall appoint a time and place at which they shall meet to execute the duties of their appointment, and shall cause two weeks' notice thereof to be given to the parties interested therein, either by personal service or by publication in a newspaper published in the county where such lands may lie; at which time and place the said commissioners shall meet and view the premises and hear the parties interested, and take evidence, if any be offered, and for that purpose shall have power to administer oaths or affirmations, and to adjourn from day to day, and in case of the refusal or failure of either or any of said commissioners to attempt and perform their said duties, the said judge shall have power to appoint another or other disinterested person or persons as commissioners to act in the place of such absent commissioner or commissioners; and the said corporation shall make and exhibit to the said commissioners, at their meeting aforesaid, for the use of the parties interested, a statement and description in writing, or by drawings or maps, or both, of the lands and streams by them sought to be taken or diverted as aforesaid, and of the use, occupation of and excavations upon any lands by them sought to be made; and the said commissioners shall thereupon ascertain and assess the value and damages aforesaid, and shall execute under their hands and seals, or the hands and seals of a majority of them, an award to said corporation of the lands, rights and privileges by them sought in the statements and description aforesaid, stating therein the amount of damages and compensation therefor by them assessed in favor of such owner or owners, which award shall be by them acknowledged and filed in the county clerk's office, and by him recorded in the registry of deeds; *provided always*, that if any real estate, the owner or owners of which shall not have given his, her or their consent in writing to the diversion or diminution of said springs or streams, or to the damages to which by reason of the diversion or diminution of said springs or streams, shall not have been ascertained and paid pursuant to the directions of this act, shall be injured or damaged by the diversion or diminution of any said springs, that the owner or owners thereof may have and maintain his, her or their action to recover damages for such injury which he, she or they may sustain by reason of anything done under this act as if this act had not been passed. (a)

Court to appoint commissioners to ascertain value of lands, &c.

Commissioners to assess damages, &c.

Proviso.

(a) Under this act a water company may condemn a strip of land for the purpose of excavating an open conduit to convey water from a pond to its pumping station. *Cheyney v. Atlantic City Water Works Co.*, 26 Vr. 235.

357. SEC. 6. That before taking possession of any such lands, or entering thereon for the purpose of making any excavation or occupation thereof, or by diverting any spring or stream of water, the said corporation shall pay or tender to such owner or owners, or, in case of absence from the state or legal disability, shall deposit with the clerk of the circuit court of said county the amount of damages so awarded; and the award of said commissioners, and the payment or tender or deposit as aforesaid of such damages shall vest in said corporation the lands, rights and privileges by them sought, described and set forth in said statement and description, in all respects the same as if the same had been conveyed to said corporation by said owner or owners under their hands and seals.

Amount of damages awarded to be paid before taking possession, &c.

358. SEC. 7. That if either party feel aggrieved by said assessment and award, such party may appeal to the next or second term of the circuit court of said county, by petition and notice thereof served upon the opposite party two weeks prior to such term, or published a like space in a newspaper published nearest the lands in question, which petition and notice, so served or published, shall vest in said court full power to hear and determine said appeal, and if required they shall award a venire for a jury to come before them, who shall hear and finally determine the issue under the direction of the court, as in other trials by jury, and it shall be the duty of the said jury to assess the damages to the said lands as above mentioned, and the value of such as shall be absolutely taken; and said court shall have power to order a struck jury, or a jury of view, or both, to try any such appeal; and also to order any jury which may be impaneled and sworn to try any such appeal to view the premises in question during said trial, and the right of said corporation to appeal from and dispute the correctness of any award shall not be waived or taken away by the paying or tendering the amount of the award, and taking possession of the land or exercising the rights covered by such award; and the right of any owner of any such lands or rights in like manner to appeal, shall not be waived or lost by the acceptance of the amount so awarded, when tendered, and upon the final determination of any such appeal the said court shall render such judgment in favor of the one party and against the other as the right and justice of the case shall require, and shall award to the party substantially succeeding and prevailing in said appeal, his, her or their costs of said appeal against the opposite party, and shall have power to enforce the judgment so rendered by execution, as other judgments are enforced, and also by summary proceedings and attachments for non-payment thereof.

Proceedings in case of appeal.

359. SEC. 8. That the business of said company shall be managed by a board of directors of not less than five, who shall be stockholders therein, and a majority of whom shall be residents of this state, and a majority of directors chosen shall be a quorum, and there shall be an election of directors within one year from the filing of the articles of association, and annually thereafter at such time as shall be fixed by the by-laws of such company; three weeks' notice thereof shall be given by publication in a newspaper in general circulation in such city, town or village; the stockholders shall be entitled to vote either in person or by proxy.

Directors to be stockholders, &c.

360. SEC. 9. That the officers of such company shall be a president, who shall be one of the directors, a secretary and treasurer, and such other officers, agents and servants as the board of directors shall deem necessary; such officers shall be elected annually by the directors, and shall be required to give bond with penalty and surety to be approved of by said board of directors, conditioned for the faithful discharge of their respective duties.

Election of officers, &c.

361. SEC. 10. That the amount of the capital stock shall be fixed by the company, but may be increased by a vote of the stockholders at any annual meeting, and such capital stock be divided into shares of not more than one hundred dollars each.

Capital stock, how fixed.

362. SEC. 11. That if any person or persons shall willfully do or cause to be done, any act or acts whatever, thereby to injure any reservoir, conduit-pipe, cock, machine, or structure whatsoever, or anything appertaining to

Penalty for injury done to works.

the works of said corporation whereby the same may be stopped, obstructed or injured, the person or persons so offending shall be considered guilty of a misdemeanor, and being thereof convicted, shall be punished by fine not exceeding three hundred dollars, or imprisonment at hard labor not exceeding two years, or both; *provided*, such criminal prosecution shall not in anywise impair the rights of action for damages by a civil suit, hereby authorized to be brought for any such injury as aforesaid, by and in the name of said corporation in any court of this state having cognizance of the same.

Corporation may lay pipes beneath public roads, streets, &c., free from charge.

Proviso.

Proviso.

May sell and dispose of the water.

Time for commencing and completing works.

363. SEC. 12. That such company be and they are hereby fully authorized and empowered to lay their pipes beneath such public roads, streets, avenues and alleys, as they may deem necessary for the purposes aforesaid, free from all charge to be made by any person or persons, or body politic whatsoever, for said privilege, and also such hydrants at the crossings or intersections of said streets and alleys; *provided*, that the said pipes shall be laid at least three feet below the surface of the same, and shall not in anywise unnecessarily obstruct or interfere with the public travel, or damage public or private property; *and provided*, that the consent shall be obtained of the corporate authorities, if any there be, of any town through which the same may be laid. (a)

364. SEC. 13. That said company may sell and dispose of the water issuing from their reservoirs, aqueducts or pipes, for such price or prices, or quarterly or annual rents, and such restrictions as they may think proper.

365. SEC. 14. That such company shall commence the construction of the proposed water works within six months from the date of their organization, and shall complete the same within two years from the date of commencement.

366. SEC. 15. [Amended by Sec. 372, *post*.]

Supplement.

P. L. 1877, p. 114.

Approved March 9, 1877.

367. SEC. 1. [Amended and supplied by Sec. 370, *post*.]

Supplement.

P. L. 1880, p. 273.

Approved March 12, 1880.

368. SEC. 1. [This section, amending Sec. 352, *ante*, is amended and supplied by Secs. 371 and 373, *post*.]

Supplement.

P. L. 1883, p. 201.

Approved March 23, 1883.

Aqueduct or water company authorized to extend mains beyond limits of city, borough or town.

369. SEC. 1. That it shall and may be lawful for any aqueduct or water company organized under the act to which this is a supplement, or specially chartered for the purpose of supplying any city, borough or town with water, to extend its mains outside and beyond the corporate limits of such city, borough or town, along any road or street leading therefrom, for the purpose of supplying the dwellers along such road or street with water, provided a majority in frontage of the owners of land fronting on such road or street, or of any portion thereof, proposed to be supplied, shall consent thereto in writing.

Supplement.

P. L. 1883, p. 204.

Approved March 23, 1883.

370. SEC. 1. That the first section of the act entitled "A supplement to the act entitled 'An act for the construction, maintenance and operation of water works, for the purpose of supplying cities, towns and villages with water,' approved April twenty-first, one thousand eight hundred and seventy-six," which said supplement was approved the ninth day of March, one thousand eight hundred and seventy-seven [see Sec. 367, *ante*], be

and the same is hereby amended so that the first section will read as follows, to wit :

[That every company, organized under the act to which this is a supplement, may make and issue bonds, with or without coupons attached, bearing interest not exceeding seven per centum per annum, to borrow money or to secure any indebtedness created by them, and sell, exchange or otherwise dispose of the same upon such terms and conditions as they may deem advisable ; and such bonds and the interest thereon may be secured by mortgage or mortgages given or executed to a trustee or trustees for the use of the bondholders, upon the corporate franchises, real and personal estate, and all other property of such company or any part thereof ; *provided*, they shall not issue bonds for a greater sum than the full amount of their capital stock paid in, including any former loans.]

Company may issue bonds.
Rate of interest.
Proviso.

Supplement.

Approved March 5, 1884. P. L. 1884, p. 42.

371. SEC. 1. [This section, amending Secs. 352 and 368, *ante*, is again amended by Sec. 373, *post*.]

Supplement.

Approved March 21, 1888. P. L. 1888, p. 180.

372. SEC. 1. That section fifteen of the act to which this is a supplement [see Sec. 366, *ante*] be and the same is hereby amended to read as follows :

[That any aqueduct company now in existence under any special charter in this state, and any company which has been incorporated under the provisions of this act, shall have the right from time to time to add to and extend their works to such extent as may be necessary to carry out the purposes of its corporation, and for that purpose to take all such lands and divert all such streams of water, in the manner hereinbefore provided, as shall be necessary for that purpose ; *provided*, that nothing in this section shall be deemed, taken or construed to empower or authorize any aqueduct or water company to supply or furnish water within the corporate limits of any city of this state owning or controlling its water-supply.](a)

Aqueduct companies may extend works.
Proviso.

Supplement.

Approved February 14, 1895. P. L. 1895, p. 75.

373. SEC. 1. That the first section of the act to which this is a supplement [see Secs. 352, 368 and 371, *ante*] be amended so as to read as follows :

[That any number of persons, not less than seven, a majority of whom shall reside in this state, may form a company for the purpose of constructing, maintaining and operating water works in any city, town, township, village, seaside resort or borough in this state having a population of not more than fifteen thousand and not less than five hundred, and for the purpose of supplying such city, town, township, village, seaside resort or borough, and the inhabitants thereof, with water.](b)

Number of persons necessary to form a corporation.

An act relating to municipal or other authorities owning or managing works for the supplying of water to the public.

Approved March 14, 1878. P. L. 1878, p. 92.

374. SEC. 1. [Amended and supplied by Sec. 375, *post*.]

(a) This section is comprehensive in its terms, applying to every aqueduct company in existence, at the time of its passage, under any special charter. Under the above act, the Morris Aqueduct Company has authority to take by condemnation such lands and waters as may be necessary for its purposes, and is not compelled, first, to exhaust the territory embraced in the supplement to the charter of said company passed in 1882. *Olmstead v. Proprietors of the Morris Aqueduct*, 18 Vr. 811, affirming *S. C.*, 17 Vr. 495.

(b) The Atlantic Water Works Company was incorporated under the act to which the above is a supplement. Atlantic City gave its consent to the incorporation and entered into a

contract by which the company was to furnish water, and by which such company was to have the exclusive right to furnish water to the city and its inhabitants. *Held*, that an injunction will issue to protect the company from unlawful competition. *Atlantic City Water Works Co. v. Atlantic City*, 12 Stew. 367. See *Read v. Atlantic City*, 20 Vr. 558, 21 Vr. 685. *Atlantic City Water Co. v. Consumers' Water Co.*, 22 Vr. 420. For the purposes of this legislation, this classification by population is constitutional. *Lewis v. Moore*, 25 Vr. 121. See *Atlantic City Water Works Co. v. Atlantic City*, 12 Stew. 367. *Atlantic City Water Works Co. v. Consumers' Water Co.*, 17 Stew. 427.

Supplement.

P. L. 1891, p. 170.

Approved March 22, 1891.

Municipal authorities to use their discretion in fixing sums to be assessed upon vacant lots, &c.

375. SEC. 1. That the first section of the act above referred to be amended so as to read as follows :

[That in every city of this state in which the municipal or other authorities own or manage water works, and are now empowered and compelled to annually fix a sum to be assessed upon vacant lots and lots with buildings thereon, in which water is not taken, such authorities are hereby authorized to use their discretion in each year in fixing or omitting to fix such sums to be so assessed.]

Supplement.

P. L. 1879, p. 314.

Approved March 14, 1879.

In lieu of assessing vacant lots, &c., board may lay out fire and water districts.

376. SEC. 1. That any municipal or other authority now empowered by law to use their discretion in fixing or omitting to fix annually a sum to be assessed upon vacant lots, and lots with buildings thereon in which water is not taken, may hereafter in their discretion, in lieu thereof, lay out a district in the territory through which their mains run or may from time to time be laid, to be known as the fire and water district, which district shall include all the real estate along which the mains run and extend in depth four hundred feet upon all lots whatever, and on all lots having buildings thereon two hundred feet beyond ; *provided*, that when any lots having buildings thereon shall extend beyond the outside boundary line of said district, so that any of said buildings shall be bisected by said line, then said outside boundary line shall be extended so as to include such buildings within said district.

Proviso.

Gross sum may be assessed on such districts.

377. SEC. 2. That when such district shall be laid out, the authorities managing said works may fix such gross sum as they shall deem proper, to be raised by taxation upon the real estate in said district for the management of said works, and shall report the same to the common council on or before the first Tuesday of May in each year, and furnish a copy thereof to the assessors of taxes for the ensuing year ; which sum shall be inserted in the tax levy of said ensuing year, to be levied and collected out of the real estate of said district, as other taxes are levied and collected.

378. SEC. 3. [Amended and supplied by Sec. 379, *post.*]

A further supplement to an act entitled "A supplement to an act entitled 'An act relating to municipal or other authorities owning or managing works for the supplying of water to the public,'" which supplement was approved March fourteenth, one thousand eight hundred and seventy-nine.

P. L. 1881, p. 63.

Approved March 2, 1881.

Proceedings for assessing and collecting such gross sum.

379. SEC. 1. That the third section of the supplement above mentioned be amended so as to read as follows :

[That for the purpose of raising such gross sum which shall be designated as a "district, fire and water tax," the assessors and boards of assessors shall fix and review the valuations of all lands within said district in the same manner as they now fix the valuations for tax purposes of all land in said city ; and all proceedings now required or authorized to be taken for the assessment, collection and enforcement of the collection of taxes shall be equally applicable to the assessment, collection and enforcement of the collection of the district, fire and water tax.]

Supplement.

P. L. 1880, p. 54.

Approved February 26, 1880.

Moneys received to be paid over to authorities of water works.

380. SEC. 1. That the receiver or other collector of taxes authorized by the act to which this is a supplement, to receive money to aid authorities owning or managing works for the supplying of water to the public, in carrying on such works, shall pay all moneys assessed and received by him for the managing of said works when collected directly, and as collected, to such authorities.

An act in relation to water companies.

Approved April 8, 1878. P. L. 1878, p. 331.

381. SEC. 1. That in case any incorporated water company of this state, who have by agreement or otherwise collected water rents in advance, shall fail for more than five days at any one time during any period for which such rent is charged, collected or received, to supply water to the person who has paid such rents in advance, such water company shall refund to such consumer a portion of such rent proportioned to the time of such non-supply; *provided*, nothing in this act shall apply to any city or town where the water works are owned and controlled by the city or town authorities.

Water rents paid in advance to be refunded by company on failure to supply water.

Proviso.

382. SEC. 2. That the word "consumer" in the first section of this act shall be construed to include individuals, firms, private, public and municipal corporations furnished with water for any purpose other than that of motive power, by any incorporated water company.

Word "consumer," how to be construed.

An act to authorize municipal corporations to contract for a supply of water for public uses.

Approved March 15, 1881. P. L. 1881, p. 118.

383. SEC. 1. [Amended and supplied by Sec. 384, *post*.]

Amendatory act.

Approved May 9, 1884. P. L. 1884, p. 324

384. SEC. 1. That the act entitled "An act to authorize municipal corporations to contract for a supply of water for public uses," which act was approved March fifteenth, one thousand eight hundred and eighty-one, be amended so that the same shall read as follows :

[That it shall be lawful for the city council, township committee or other governing body of any municipal corporation in this state, by whatever name such governing body shall be called, to enter into and make a contract and agreement with any aqueduct board or water company, for a year or term of years, for the obtaining and furnishing of a supply of water to be used by and within such municipal corporation for the purpose of extinguishing fires and for such other public uses and purposes as may be found necessary or convenient, which contract and agreement, when so made, shall be the lawful and valid contract of such municipal corporation, as well as of the said aqueduct board or water company, according to the tenor thereof; and the sum or sums of money in said contract agreed to be paid in each year by any such municipal corporation shall be levied and assessed as a tax upon the real and personal estate within such municipal corporation, and liable to taxation for other municipal purposes, and the said real and personal property is hereby made liable to the assessment and collection of such tax; *provided, however*, and it is hereby expressly enacted, that no such agreement and contract shall be made for a period longer than ten years in any one term, and that the amount of payment in such contract agreed to be made in any year shall not exceed a sum equal to one dollar for each inhabitant of such municipal corporation, unless the proposition be approved by a majority of legal voters in such municipal corporation at an annual or special election, to which the same may be submitted; *and provided*, that this act shall not apply to any city now supplied with water for public use, pursuant to an existing contract or arrangement with some board or corporation.](a)

Municipal corporation may contract for supply of water for public uses.

Proviso.

Proviso.

(a) A contract for twenty years would be without authority, and void. *Davis v. Town of Harrison*, 17 Vr. 79. A contract for the period of ten years, to commence after the lapse of a reasonable time for the erection of the works necessary to a water-supply, may be made. *Van Giesen v. Bloomfield*, 18 Vr.

442. This act did not validate prior criminal arrangements entered into by municipal authorities for a water-supply. *Atlantic City Water Works Co. v. Read*, 21 Vr. 665. See *Conger v. Summit Township*, 23 Vr. 483. *Lewis v. Moore*, 25 Vr. 122. *Mueller v. Egg Harbor City*, 26 Vr. 248.

Supplement.

Approved April 17, 1884.

P. L. 1884, p. 194.

Municipalities
may issue bonds
for expenses of
laying pipes, erect-
ing hydrants, &c.

385. SEC. 1. That in addition to the powers given to any city or town council, or township committee or other governing body of any municipal corporation in this state, by whatever name such governing body may be called, in the act to which this is a supplement, said city, town or township to be supplied with water as in said act provided, may issue bonds 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, town or township or other municipal corporation, in such sums as the common council or township committee respectively shall find necessary, not exceeding, in the whole, the sum of one-twentieth of the total assessed value of the real estate in such city, town or township, as such rate shall appear by the assessment for the year preceding the issue of such bonds, said bonds to bear interest at a rate not exceeding six per centum per annum, and be made payable at such period of time as the city or town council, or township committee or municipal body may determine, but not exceeding thirty years from the date thereof, which said bonds may be sold for the best price that can be obtained for the same, but in no case at less than the par value thereof; said bonds shall be issued under the corporate seal of such municipal body and signed by the president or other head officer, and the treasurer of such city, town or township, or other municipal corporation, which bonds, when so issued, shall be a lien upon the real and personal estate within the limits of the authority of said city, town or township or municipal corporation; the interest on said bonds shall be assessed, levied and collected upon the real and personal estate within such municipal corporation in the same way and in the same manner as other taxes are raised or levied in such city, town or township. (a)

Bonds, how issued
and interest
collected.

Supply of water,
how regulated.

386. SEC. 2. That said city, town or township may supply the water to the inhabitants thereof upon such terms and at such rates as may be agreed upon by the governing body of such municipal corporation, and under such rates and regulations as such governing body may determine, and the money received from the sale of water shall be known as water rents, and, after deducting therefrom such sums as may be necessary to defray the expenses of repairs, maintenance of such pipes and hydrants, and extension of pipes and all other necessary expenses, shall be applied toward the creation of a sinking fund for the payment of the principal of said bonds as they shall, from time to time, become due and payable.

Water rents, after
defraying ex-
penses, to be
applied toward a
sinking fund.

Who to constitute
sinking fund
commissioners.

387. SEC. 3. That the commissioners of said sinking fund shall be composed of the head officer of said municipal corporation, the city or township treasurer and two commissioners, to be appointed by the common council or township committee of such city, town or township, and shall have the sole control and custody of such sinking fund; the commissioners of the sinking fund aforesaid are hereby authorized to invest the money belonging to such sinking fund in bonds of the United States, and in the obligations of indebtedness authorized to be issued by such city, town or township under this act, and said commissioners shall from time to time, as to them shall seem best, when they shall have funds, purchase the bonds to be issued under this act, and when so purchased, said bonds or obligations shall not be re-issued, but be immediately canceled; *provided, however,* that said commissioners of said sinking fund shall not pay a greater sum than the par value for said bonds or obligations, and said sinking fund commissioners, respectively, shall keep accurate accounts of 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 or town council or township committee of such city, town or township.

Authorized to
invest moneys of
the sinking fund.

Proviso.

(a) See *Atlantic City Water Works Co. v. Read*, 21 Vr. 638. *Mueller v. Egg Harbor City*, 26 Vr. 248. *Conger v. Summit Township*, 28 Vr. 485.

388. SEC. 4. That said city, town or township may lay its pipe or pipes in and through any public street or streets in any adjacent town or township, in order to carry out this act ; *provided*, that the ordinary use of roads, streets and highways shall not be unreasonably interrupted during the laying of such mains and pipes, and that such roads, streets and highways shall be left in as good condition as when such work was begun.

Pipes may be laid in streets of adjacent towns, &c.
Proviso.

389. SEC. 5. That it shall be lawful for any city, town or township of this state or the corporate authorities thereof, to make and execute a contract or contracts with the municipal authorities of any city of this state or with any aqueduct or water company having water works, for the supply and distribution of water for public and private use in any city, town or township of this state, which at the time of such contract shall not be supplied with water as aforesaid, by any municipal or private corporation.

Authorities may contract for supply of water.

390. 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.

Repealer.

An act to provide for the appointment of commissioners to determine upon plans for the storage of any of the waters of this state for the purpose of furnishing to cities and towns a joint water-supply.

Approved March 31, 1882.

P. L. 1882, p. 284.

391. SEC. 1. That there shall be appointed by the governor four commissioners for the purposes hereinafter named, who shall serve without pay, and whose expenses shall be paid as hereinafter set forth.

Governor to appoint four commissioners on storage of waters.

392. SEC. 2. That said four commissioners shall, after appointment, immediately organize as a commission, select officers, and shall choose a fifth commissioner, who shall be an hydraulic engineer and who shall serve with said commissioners and be one of them, and he shall be entitled to pay for each day of actual service, in such compensation as shall be agreed upon between said four commissioners and himself at the time of his selection by them.

Commissioners to meet, organize and choose a fifth commissioner, &c.

393. SEC. 3. That said commissioners when applied to as hereinafter set forth, shall consider and determine upon such plans as they may deem most practicable for the storage of any of the waters of this state for the purpose of furnishing any of the cities and towns of this state with a good and sufficient water-supply.

Commissioners to determine upon plan for storage of waters.

394. SEC. 4. That it shall be lawful for the board of aldermen or other governing body of any cities or towns in this state, to apply to said commissioners to consider and determine upon the best practicable plan for supplying said cities and towns with a joint water-supply, and the expenses of said commission in determining upon the same shall be borne and paid jointly by the said cities and towns so applying, in proportion to the number of inhabitants of each of said cities and towns as shown by the last United States census ; said commissioners shall from time to time, or when applied to therefor by any board of aldermen or other governing body of any of said cities and towns, make a statement in writing of their expenses in and about their said work, and shall proportion the same to the several cities and towns in the manner as aforesaid ; said statement shall be certified to by the president and secretary of said commission, and upon presentation of the same to the said board of aldermen, or other governing body, it shall be lawful for and be the duty of said board of aldermen, or other governing body, to pay the same out of any moneys or funds from which the contingent expenses of any such cities or towns are generally paid.

Authorities of cities and towns may apply to commissioners to consider and determine upon plan for joint supply of water, &c.

Expenses, by whom paid.

Statement of expenses to be made, &c.

395. SEC. 5. That said commissioners shall be empowered to engage engineers and such other assistants as they may deem necessary for the prosecution of their work, and make surveys, plans and estimates, of the best practicable source, means, manner and the expense attendant thereon, for furnishing any such cities and towns with a joint water-supply, and they shall submit the same to each of the boards of aldermen, or other governing body of such cities and towns so applying to them, and said

Commissioners empowered to engage engineers and make surveys, plans and estimates, &c.

Plans, &c., to be submitted to the municipalities.

When plans are accepted, to cause a bill to be drawn and present the same for passage to the legislature.

Notice of intention to be published.

board of aldermen, or other governing body, shall submit said survey, plans and estimates, to the municipal board in said city or town controlling the supply and distribution of water, and if said board of aldermen, or other governing body, and said board controlling the supply and distribution of water concur in the acceptance of any of the surveys, plans and estimates submitted by the said commissioners, the said board of aldermen, or other governing body shall cause said acceptance to be signified to said commissioners in writing, who shall, upon receiving the acceptances of a majority of the boards of aldermen, or other governing bodies of such cities and towns, cause a bill to be drawn embodying their recommendations, and shall present the same for passage to the legislature of this state at its next session ; and said commissioners shall give due notice by publication, as required by law, of their intention to apply to the legislature for the passage of such bill.

Amendatory act.

Approved March 23, 1883.

P. L. 1883, p. 231.

Additional powers of commissioners.

396. SEC. 1. That in addition to the powers conferred on the commissioners appointed under the act to which this is an amendment, said commissioners shall also have the power to make forthwith such investigations and surveys, and do such other work as may be necessary to enable them to determine upon the best practicable plan or plans for supplying the cities and towns or other municipalities in this state, either jointly or separately, with pure and wholesome water, and the best methods of storing and distributing any of the waters of this state for the purposes aforesaid, and to ascertain and determine the source or sources of supply, from storage-reservoirs or otherwise, of the waters to be used for such purpose, having respect to the future growth of the population and the industrial and commercial interests of the state, and all parts thereof, and to the public health ; and said commissioners may proceed to make such investigations and surveys, and do such work as aforesaid, without waiting for application to be made to them by any board of aldermen or any governing body of any city or town of this state ; and said commission shall make their reports from time to time to the legislature of this state ; and said commissioners shall have the power to expend such sums of money as shall be authorized and audited by the governor and comptroller of this state for the purposes aforesaid ; *provided, however,* that said expenditure shall not exceed the sum of five thousand dollars within the next two years ; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated, to be subject to the draft of said commissioners, and shall be paid upon the warrant of the comptroller, upon satisfactory vouchers being produced of such expenditures made or incurred.

Proviso.

Compensation of commissioners and engineer.

397. SEC. 2. That each of said commissioners shall receive five dollars for every day actually employed by him in the duties of his said appointment, and his actual traveling expenses when absent from his residence, but the hydraulic engineer, who shall be a member of said commission, under the second section of the act to which this is an amendment, shall be entitled to receive such additional compensation as shall be agreed upon by said commissioners, and concurred in by the governor and comptroller of the state ; and the compensation for the time and expenses of said commissioners and engineer shall be allowed and paid as a part of the expenditures of said commission, in manner as provided in the first section of this act.

Commissioners may commence proceedings to restrain any state or persons from diminishing flow of water.

398. SEC. 3. That said commissioners, whenever they deem such action necessary to preserve the rights of the state from infringement may commence proceedings in the name of the state of New Jersey to restrain any other state, or any person, or any municipal or other corporation from diminishing the flow, at the point where it enters this state, of any stream of potable water, by conducting away from such stream, or from sources lying within its water-shed and within the boundaries of another state, any portion of the waters naturally tributary to such stream, or from causing any injury to the waters flowing in such stream, or which are tributary

thereto, so as to render such stream and waters, at the point where they enter this state, unfit for the supply of cities and towns or for domestic use; and the attorney-general is hereby required to commence and prosecute such actions as may be instituted or directed by said commissioners as aforesaid; and his expenses and disbursements, and the expenses and disbursements of such assistants as may be appointed by the governor, and their reasonable charges and counsel fees, shall be taxed by the chief justice and paid out of the state treasury on presentation of the bill so taxed.

Expenses, counsel fees, &c., of attorney-general and assistants, how taxed and paid.

An act permitting cities and towns to remit and cancel water rates and to allow the free use of water by charitable institutions.

Passed March 16, 1885.

P. L. 1885, p. 97.

399. SEC. 1. That in any city or town where the supply of water for the use of the inhabitants thereof is under the control of the municipal authorities, it shall be lawful for the board, council or other authority having charge thereof in their discretion to cancel and remit any water rate assessed or charge made for the water economically and necessarily used by any hospital, asylum, home for aged women, children's home or other charitable institutions supported and maintained by private benefactions without aid from the public funds.

Authorities may remit water rates to charitable institutions.

An act to authorize municipal corporations to contract for a supply of water for public uses.

Approved March 16, 1887.

P. L. 1887, p. 20.

400. SEC. 1. That it shall be lawful for any city, town or borough council or common council, or other governing body of any municipal corporation in this state not owning or controlling any water works to enter into and make a contract or contracts with any adjacent or adjoining municipal corporation, owing or controlling any water works, for a year or term of years, for the obtaining and furnishing a supply of water to be used by and within such municipal corporation for the purpose of extinguishing fires and for such other public uses and purposes as may be found necessary or convenient; and that such municipal corporation to be supplied with water as aforesaid may issue bonds to pay for the expenses of laying mains and pipes, erecting fire hydrants and all other expenses incidental to the introduction and use of water in said municipal corporation in such sum or sums as the governing body thereof shall find necessary; *provided, however,* that the entire issue of bonds for water purposes shall not exceed the sum of one-thirtieth of the total assessed value of the real estate in such municipal corporation as such rate shall appear by the last regular assessment preceding the issue of such bonds, said bonds to bear interest not exceeding the legal rate and be made payable at such period of time as the governing body of such municipal corporation may determine, not exceeding thirty years from the date thereof, which bonds may be sold for the best price that can be obtained therefor, but in no case at less than the par value of the same; and that said bonds shall be issued under the corporate seal of such municipal corporation and be signed by the mayor or other head officer and the treasurer or collector or other officer having the custody of the funds of such municipal corporation, which bonds when so issued shall be a lien upon the real and personal estate within the limits of such municipal corporation; and the principal and interest of said bonds shall be raised by tax, at the same time and in the same manner and on the same property as other taxes are raised within such municipal corporation.

Municipal corporations authorized to contract with adjoining municipalities for water-supply.

Proviso.

401. SEC. 2. That such municipal corporation may supply the water to the inhabitants thereof, upon such terms, and at such rates, and under such rules and regulations as the governing body of the same may determine, and that the money received from the sale of water as aforesaid shall be known as water rents, and after deducting therefrom the sum due under the contract by which the water is supplied to the said municipal corpora-

Municipalities may supply water to inhabitants under rules and regulations.

Water rents, how applied.

tion, and the sums necessary to defray the expenses of repairs and maintenance of such mains, pipes and fire hydrants, and for the extension of mains and pipes, and the erection of additional and necessary fire hydrants, and all other necessary expenses incidental to the introduction and use of the water as aforesaid, the balance or remainder of such water rents, if there be any, shall be applied to the payment of other legitimate municipal expenses.

Municipal corporations owning water works may enter into contract for supply of water.

402. SEC. 3. That it shall be lawful for any municipal corporation of this state owning or controlling any water works, to enter into and make a contract or contracts with any adjacent or adjoining municipal corporation of this state, not owning or controlling any water works, for the supply and distribution of water as in this act mentioned.

Act not to take effect until assented to by legal voters.

403. SEC. 4. That the provisions of this act shall remain inoperative in any city, town, borough or other municipality, until assented to by a majority of the legal votes cast for or against such measure, at any regular charter or general election to be hereafter held in such city, town, borough or other municipality, of which election the clerk of such city, town, borough or other municipality 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 five public places in such city, town, borough or other municipality, and published in one or more newspapers printed therein for at least six days previous to the day of such election, and the ballots provided at such election for the said purpose shall contain either the words "for water bill" or "against water bill;" and if a majority of the votes cast for or against such measure shall be in its favor, then this act shall go into effect immediately.

Clerk to give notice of election.

Repealer.

404. SEC. 5. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

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 2, 1888.

P. L. 1888, p. 366.

Board having charge of water-supply may contract for water.

405. SEC. 1. That it shall be lawful for the board of aldermen, common council, city council, aqueduct board, board of public works, water commissioners, township committee, town committee or other board, body or department of any municipal corporation in this state, having the charge or control of the water-supply of any such municipal corporation, to make and enter into a contract or agreement with any water company or other company, contractor or contractors, for one year, or for a term of years, for the obtaining and furnishing of a supply, or a further or other supply of water to such municipal corporation, for the purpose of extinguishing fires and for such other lawful uses and purposes as may be deemed necessary or convenient; and any such contract and agreement, when so made, shall be the valid and lawful contract of such municipal corporation, as well as of any such water company or other company, contractor or contractors, according to the tenor thereof, and the sum or sums of money in such contract agreed to be paid in each year by any such municipal corporation, or by any board, body or department thereof, or so much thereof as may be necessary, after appropriating to the payment thereof the water rents or proceeds of sales of water collected by such municipal corporation applicable to that purpose, shall be annually appropriated, levied, assessed and collected as a tax upon the real and personal estates within such municipal corporation and liable to taxation for other municipal purposes, and the said real and personal property is hereby made liable to and for the assessment and collection of such tax; *provided, however,* and it is hereby expressly enacted, that no such agreement and contract shall be made for a period longer than twenty-five years in any one term; *and provided further,* that in any municipal corporation having a board of public works and a board of finance and taxation, if the contract and agreement be made and entered into by any such board of public works, it shall not be binding upon such municipal

Proviso.

Proviso.

corporation until the same shall have been approved by such board of finance and taxation ; *and provided further*, that such contract may contain an option for the acquiring by such municipal corporation of the land, water and water rights for such supply, on terms to be fixed in said contract. (a)

Proviso.

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

Repealer.

An act to enable towns and townships in this state to construct water works for the extinguishment of fires and supplying the inhabitants thereof with pure and wholesome water.

Approved March 9, 1893.

P. L. 1893, p. 145.

407. SEC. 1. That the inhabitants of any town or township in this state, wherein it is desired to construct water works for the extinguishment of fires and supplying the inhabitants thereof with pure and wholesome water, may request the common council, township committee or other governing body of such town or township to call a special election for the purpose of obtaining the consent of a majority of the legal voters in said town or township to construct such water works in the manner hereinafter mentioned, and that such request shall be in the form of a petition in writing to the common council, township committee or other governing body of such town or township, signed by the owners of the majority of the real estate in such town or township, according to its assessed value in the year preceding the year at which such petition is presented to the common council, township committee or other governing body of such town or township, and shall be verified by the oath of the assessor of such town or township of the amount of the assessed value of the real estate owned by the signers to such petition, and that such amount is, at least, a majority of the real estate in such town or township, according to its assessed value in the year preceding.

Special election in towns and townships to be called upon petition to decide upon construction of water works.

408. SEC. 2. That upon the filing of such petition with the common council, township committee or other governing body of such town or township, the said common council, township committee or other governing body of such town or township, be and they are hereby authorized and required, within thirty days from the filing of such petition, to call a special election to be held in said town or township, at any time to be fixed by the common council, township committee or other governing body of such town or township, not less than thirty days from the filing of such petition, of which election the clerk of said town or township shall cause notice of the time and place or places of holding the same, to be given by advertisements signed by himself and set up in at least ten public places in said town or township, for at least ten days previous to the day of such election, and also published in one or more weekly newspapers printed therein, at least one issue before such election ; and said clerk shall provide two printed ballots, one containing the words "for the adoption for this town (or township) of the provisions of an act entitled 'An act to enable towns and townships in this state to construct water works for the extinguishment of fires, and supplying the inhabitants thereof with pure and wholesome water ;'" the other containing the words "against the adoption for this town (or township) of the provisions of an act entitled 'An act to enable towns and townships of this state to construct water works for the extinguishment of fires, and supplying the inhabitants thereof with pure and wholesome water ;'" and that each and every polling place in such town or township shall be provided by said clerk with a quantity of ballots of each kind above mentioned, equal to double the number of votes cast at such polling place at the last election prior to the special election hereinbefore mentioned ; that the polls of such election shall be held at the usual places of holding the annual town or township election in said town or township, and shall be opened at six o'clock in the morning and closed at seven

Time and manner of conducting election.

(a) See *Conger v. Summit Township*, 23 Vr. 483. *Stingerland v. Newark*, 25 Vr. 62. *Mueller v. Egg Harbor City*, 28 Vr. 249.

o'clock in the evening, and such election shall be conducted by the proper election officers of said town or township for the time then being, and such officers shall return to the common council, township committee or other governing body of such town or township, 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 town or township by the clerk of such town or township.

Such construction to be made on authority of majority of voters.

409. SEC. 3. That if at such election a majority of the votes cast at such election shall be in favor of the adoption of the provisions of said act, the common council, township committee or other governing body of such town or township, shall be and hereby are authorized in the manner hereinafter provided, in the corporate name of such town or township, to take and convey from such source or sources as may be practicable, into and through said town or township, such quantity of pure and wholesome water as may be required for the extinguishment of fires and supplying the inhabitants thereof with pure and wholesome water, and other purposes, and to this end the said common council, township committee or other governing body of said town or township is hereby authorized and empowered in the corporate name of said town or township, to purchase, take, hold and enjoy, and convey and dispose of all real and personal estate, land and water rights, 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 or alley, within the said town or township, and to use the streets and roads of such town or township, to lay pipes in, and to put up fire hydrants, and to make alterations and additions to its said water works, and supply pumps, machinery, and lay pipes, in any place, and to construct and acquire the necessary works, pumps, engines, boilers and other requisite machinery, to be located in or out of the town or township, and to lay down mains and supply pipes, running in such direction throughout the town or township, as may be expedient, and as many fire hydrants as may be expedient, and that all work necessary to be done, or materials to be furnished to execute these powers may be done directly by the town or township, or through contractors, who after reasonable advertisement shall be deemed to afford the best security for completing the work, on the most advantageous terms, and who shall be the lowest bidder therefor, and who shall give bond with ample security for the faithful performance of the contract; all such bonds shall be executed to the town or township in its corporate name, and before being accepted shall be examined and approved by the attorney of such town or township.

Work may be done by contract.

Corporate authorities to have power to construct and maintain reservoirs, &c.

410. SEC. 4. That the said common council, township committee or other governing body of such town or township shall be and hereby are invested with all the powers necessary to enable them to construct, keep up and maintain such reservoirs, aqueducts and apparatus for elevating water as they may deem necessary from time to time, with such erections, works, establishments and fixtures as may be in their opinion required to effectuate the objects of this act, and to take and use such parts of the water of any stream, lake or pond necessary for the purposes contemplated by this act, and to lay all pipes under the streets or through private property that may be needed to conduct said water to the reservoirs, and from the reservoirs to such parts of the town or township and vicinity as the common council, township committee or other governing body of said town or township may from time to time deem expedient, and for these purposes said common council, township committee or other governing body of such town or township may make such contracts and employ all such engineers, surveyors, officers, agents, employes, workmen and laborers as they may deem necessary, subject, however, to the restrictions hereinafter provided.

411. SEC. 5. That if it should become necessary in the opinion of said common council, township committee or other governing body, to lay pipes through any private lands, or if any private lands shall be required for erecting reservoirs or other works thereon, or from which they may desire to take and use the water of any spring or springs, stream or streams of water or water rights, and no agreement can be made with the owner or owners thereof, as to the amount of compensation to be paid for the laying of said pipes through said lands, or the price of such lands or water rights as the case may be, by reason of the unwillingness of said owners, or any of them, to accept such compensation or price as said common council, township committee or other governing body may deem reasonable, or by reason of the absence or legal incapacity of said owners, or any of them, it shall be the duty of the justice of the supreme court of this state holding the circuit court in and for the county wherein said town or township is situated, upon application to him by said common council, township committee or other governing body, in the corporate name of such town or township, and after ten days' previous notice in writing of such application to the persons interested, if known and in this state, or if unknown or out of the state, after publication thereof for any time, not less than two weeks in a newspaper published in such town or township, to appoint three disinterested appraisers, from the county wherein such town or township is situated, to determine the compensation to be paid for the laying of said pipes through said lands, or the price to be paid for said lands or water rights as the case may be; and it shall be the duty of said appraisers (after having taken an oath or affirmation faithfully and impartially to discharge the trusts herein reposed in them, and after having carefully viewed the premises) within twenty days after their appointment, to deliver to said common council, township committee or other governing body, a written appraisalment under the hands and seals of them or a majority of them, of the award they have made, containing a full description of the lands or water rights, required as aforesaid, which appraisalment the said common council, township committee or other governing body, shall cause to be recorded in the registry of deeds for the said county; and upon payment or tender by the said common council, township committee or other governing body, to such owner or owners as aforesaid, or some one of them, of the sum awarded in such appraisalment, if any, then the said common council, township committee or other governing body of said town or township, shall have power to enter upon and take possession of the said lands or water rights as the case may be, for the purposes aforesaid, and the said town or township shall be deemed seized in fee-simple of the lands or water rights, required for the erection of the said reservoirs or other works as aforesaid, and the water-supply aforesaid; and in case any owner or owners of such lands shall be feme covert, under age, non compos mentis, or out of the state, then and in that case it shall be sufficient for said common council, township committee or other governing body, to pay the amount which may have been appraised as aforesaid into court, to the clerk thereof, subject to the order of said court, for the use of the party or parties entitled to the same; the costs of all which proceedings shall be taxed by the said justice of the supreme court, and paid by the said common council, township committee or other governing body of said town or township.

Proceedings to
condemn lands.

Notice of appli-
cation to be
published.

Appraisers to take
an oath.

Appraisalment
recorded in
registry of deeds.

Costs taxed by
justice of supreme
court.

The court have
power to set aside
award of ap-
praisers.

Trial by struck
jury.

412. SEC. 6. That in case the common council, township committee or other governing body of such town or township, or the owner or owners of the said land or water rights, shall be dissatisfied with the award of the appraisers named in the preceding section and shall apply to a justice of the supreme court of this state, holding the circuit court in and for the county wherein said town or township is situated, at the next term after filing of the said award, 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 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 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, water rights or 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 said town or township 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 common council, township committee or other governing body of said town or township shall have offered or the said appraisers 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; but such application shall not prevent the common council, township committee or other governing body of such town or township from taking or laying pipes through said lands upon the award of the appraisers, the value or damages being first paid, or upon a refusal to receive the same upon a tender thereof, or the owner or owners thereof being under any legal disability, the same being first paid into said court to the clerk thereof.

Lawful for common council, &c., to make necessary repairs, &c.

413. SEC. 7. That whenever it shall become necessary to make any repairs or alterations in any pipes which may have been laid through any private lands, either by virtue of the preceding section or by agreement with the owner or owners thereof, it shall be lawful for the said common council, township committee or other governing body with their workmen and agents and with necessary vehicles, tools and implements to enter upon said lands and make the necessary repairs and alterations, doing no unnecessary damage; *provided, always,* that nothing in this section contained shall be so construed as to protect the said common council, township committee or other governing body, or their workmen or agents from any action that may be brought against them individually by the owner or owners of said lands for any damage which they may have willfully or unnecessarily done.

Proviso.

Rules may be made for supplying water to individuals.

414. SEC. 8. That when said works shall have been sufficiently completed the said common council, township committee or other governing body shall have authority to furnish water to individuals and 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; the said common council, township committee or other governing body 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 price at the time specified for the payment thereof, or shall have violated or permitted the violation of any of said rules, regulations, conditions or restrictions, and whenever the said common council, township committee or other governing body shall have caused the water to be stopped off from any premises for either of the causes aforesaid, they shall not permit the same to be restored 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 shall have been stopped off by reason of any violation of the rules aforesaid, then they shall not permit the same to be restored until the expense 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 again occur.

Powers of same when rules and regulations are violated.

Water rents, how collected, &c.

415. SEC. 9. That the rents for the use of the water which said town or township may supply, as aforesaid, shall draw interest from the time they become due and shall be and remain, until paid, a lien upon the premises to which the same may be conducted and supplied; and said common council, township committee or other governing body shall have full power, in the corporate name of such town or township, to bring any suit or suits against any person or persons, corporation or corporations, for the collection of said water rents, with interest and costs, in any of the courts of this state, and it shall be the duty of said common council, township committee

or other governing body of said town or township to enforce the collection in all cases where the water rents shall be in arrear.

416. SEC. 10. That the said common council, township committee or other governing body of such town or township shall have power to employ proper persons in the management of the works aforesaid and in the collection of the said water rents upon such terms as they may deem reasonable.

Common council, &c., authorized to employ persons.

417. SEC. 11. That it shall be the duty of said common council, township committee or other governing body, to erect hydrants in the public streets of said town or township, through which pipes for the supply of water shall have been laid, in such number and locations as the common council, township committee or other governing body of said town or township, may from time to time direct, and supply the same with water from the aforesaid works.

Common council, &c., to erect hydrants in streets.

418. SEC. 12. That if any person or persons shall willfully do, or cause to be done, any act whatsoever whereby the said works, or any pipes, conduit, canal, plug, hydrant, cock, tank, cistern, reservoir, or any other thing appertaining to the same, shall be stopped, obstructed or injured, or who shall tap or make connection with any water pipe or main, for the purpose of obtaining a supply therefrom, without the knowledge or consent of the common council, township committee or other governing body of such town or township, the person or persons so offending shall, upon conviction thereof before a justice of the peace, forfeit and pay the sum of fifty dollars, with cost to be recovered by and in the name of the treasurer of said town or township, in an action of trespass in any court in this state having cognizance of the same, which sum shall be paid into the treasury of said town or township.

Treasurer of town to prosecute persons who willfully obstruct any water pipes, &c.

419. SEC. 13. That if any person or persons shall willfully pollute or adulterate the waters in any reservoir, erected under the provisions of this act, any person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding three years, or both, at the discretion of the court before whom such conviction shall be had.

Persons who pollute any reservoir guilty of misdemeanor.

420. SEC. 14. That the said common council, township committee or other governing body, are hereby authorized by, and in the corporate name of such town or township to borrow any sum not exceeding seventy-five thousand dollars, for the purpose of defraying all the expenses and the cost of the purchase of real estate, water rights, works and appurtenances 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 town or township, and constructing all works necessary to the full accomplishment thereof, and all expenses incidental thereto, and to secure the payment thereof, it shall be the duty of said common council, township committee or other governing body of said town or township, from time to time, to issue the bonds of said town or township for an amount not exceeding in the whole the sum of seventy-five thousand dollars, which bonds shall bear a rate of interest not exceeding five per centum per annum, payable semi-annually, the principal thereof to be payable at such time and in such manner as the said common council, township committee or other governing body of said town or township may deem expedient; *provided*, that a portion of said bonds shall be payable each year, and that the last of said bonds shall be payable not more than thirty years from the date thereof, and it shall be the duty of the treasurer of said town or township to make public sale of the bonds so issued, as aforesaid, at not less than their par value, and to pay the proceeds of said sales into the treasury of said town or township, to be used by said common council, township committee or other governing body of said town or township to the discharge of the duties imposed upon them by this act; the loan hereby authorized shall be called the water loan of said town or township.

Common council, &c., authorized to borrow money.

To issue bonds, interest not to exceed five per cent.

Proviso.

Bonds not taxable.

421. SEC. 15. That the bonds issued under the provisions of this act shall not be liable to any tax which may hereafter be levied by order of the said town or township.

Excess of water rents over expenses, how applied.

422. SEC. 16. That such portion 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 for constructing and maintaining the works, and raising and distributing the water, and salaries, wages, and incidental expenses and charges, shall be applied first to the payment of the interest upon the debt created for the construction of the works, and next to the payment of the principal of the bonds at maturity.

Deficiency in water debt to be raised by tax.

423. SEC. 17. That the said common council, township committee or other governing body of said town or township shall, on or before a certain day in each year, 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 same year for the use of the water and water rents, and of the deficiency, if any, of such receipts for the payment of such expenditures, and said deficiency said town or township shall raise by tax, as other 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 town or township.

Treasurer shall keep accounts of receipts and disbursements.

424. SEC. 18. That the treasurer of said town or township shall keep accurate accounts of the receipts and disbursements in proper books, to be provided by said town or township for the purpose, and which shall always be open for the inspection of the common council, township committee or other governing body of said town or township; and which accounts shall be annually audited, and a short abstract thereof shall be published with the annual statement of the town or township finances, and at the expiration of his term of office said treasurer shall deliver to his successor, all books and papers which he may have in his possession or custody by virtue of his said office.

Annual statement published.

Appointment of engineers, officers, &c., and their duties, powers and compensation.

425. SEC. 19. That it shall be lawful for the said common council, township committee or other governing body to elect or appoint any and all engineers, surveyors, officers, agents, or employes, that they may deem necessary or convenient for accomplishing the purposes contemplated by this act, to define their duties, regulate their compensation, and provide for their removal, and that the said engineers, surveyors, officers, agents, or employes 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 reasonable 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, or employes, 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 rules and regulations of said town or township, and if any person or persons shall refuse to permit such examinations, or oppose or obstruct any such engineers, surveyors, officers, agents, or employes, 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.

Purposes for which ordinances may be passed.

426. SEC. 20. That said common council, township committee or other governing body of said town or township, shall have 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 direct in what manner and for what purposes the public hydrants and fire plugs may be used.

427. SEC. 21. That this act shall be deemed a public act, and shall take effect immediately; *provided, however*, that nothing in this act shall affect or apply to any street, avenue, or highway under the charge or control of any county public road board in this state.

To what streets, &c., act shall not apply.

VI. Public buildings.

An act concerning towns and cities.

Passed May 11, 1886.

P. L. 1886, p. 350.

428. SEC. 1. That it shall be lawful for the common council or other legislative body of any city, town or township, to purchase a suitable building, or to build upon any land which said corporation may own, or purchase land and erect a building for a public town, township or ward hall, for the use of the people thereof, to hold their public meetings and have their public offices located therein; *provided*, the cost thereof does not exceed the sum of ten thousand dollars; *provided further*, two-thirds of the legal voters in said town, township, or in a ward of said cities, at any public election, shall be in favor of having the same, and those in favor of having a public hall shall each deposit a ballot containing the words, "for a public hall," and those who are opposed shall each deposit a ballot with the words, "against a public hall;" *provided, further*, ten days' public notice shall be given before the day of election, in a newspaper circulating in said corporation and ward, by the clerk of the town, township, city, or by a printed notice posted in one hundred public places, with the names of at least fifty property-owners printed thereon, that the question of having a public hall will be voted on at the next election.

Municipalities may purchase land and erect town, township or ward hall.

429. SEC. 2. That if two-thirds of the legal voters in a town, township or ward in any of said corporations should be in favor of a public hall, then the municipal authority of said corporations shall have power to raise by tax, in one or more years, such sum or sums of money from the taxable property in the township, town or ward as they shall deem necessary to pay for the erection of said hall; *provided*, the same does not exceed said sum of ten thousand dollars.

How hall shall be paid for.

430. SEC. 3. That the said municipal authority of said corporation shall, as soon as they shall have collected ninety per centum of said ten thousand dollars, prepare plans and advertise for bids for the erection of said hall, in the same manner as they now do for the erection of public schools or other public buildings, the balance of ten per centum to be used out of any contingent fund said corporation may have, the same to be repaid as soon as it is collected.

When ninety per centum of amount is collected, authorities to prepare plans and advertise for bids, &c.

431. SEC. 4. That said municipal authority shall each year place in their tax levy and collect from said town, township or ward a sum sufficient to take care of said hall, which shall include the necessary repairs, heating, lighting and salary or wages of a janitor.

How hall shall be taken care of.

432. SEC. 5. That said municipal authority shall make rules and regulations for the use of the hall by the citizens thereof, and during the month when the citizens wish to use the hall for election purposes, they shall so arrange that each political party shall have an equal use of the hall, as near as it can practically be done.

Municipal authority to make rules, &c., for use of hall.

433. SEC. 6. That said corporation may rent out or use a portion of the building not required for public, private or select meetings and public offices, for public school purposes.

Building may be rented, &c.

An act to provide for the erection or purchase of armories for the national guard in incorporated towns, boroughs or police, sanitary and improvement commissions in this state.

Approved February 15, 1885.

P. L. 1885, p. 44.

434. SEC. 1. [Amended by Sec. 437, *post.*]

435. SEC. 2. [Amended by Sec. 438, *post.*]

436. SEC. 3. [Amended by Sec. 439, *post.*]

Amendatory act.

Approved May 23, 1890.

P. L. 1890, p. 354.

Municipalities
may erect armor-
ies for use of
national guard.

That the act to which this is amendatory be and the same is hereby amended to read as follows :

437. SEC. 1. [That all townships, towns, incorporated towns, boroughs, or police, sanitary and improvement commissions of this state, not now having an armory for the use of the national guard, and in which there may be any regularly-organized and enrolled regiment or company, are hereby authorized to build and erect or purchase in said towns, boroughs or commissions a suitable armory for the use of the national guard, at a cost not exceeding the sum of ten or less than five thousand dollars, but that in towns or townships not incorporated the legal voters of such towns or townships may, by a vote of a majority of those voting at any spring election or annual town meeting, or at any special election to be called for that purpose, determine what amount of money shall be raised, and that in said towns or townships a sum less than five thousand dollars may be voted and appropriated.]

Site for armory,
how selected and
paid for.

438. SEC. 2. [That for the purpose of procuring a site and providing for its erection, or for the purchase of a suitable building already erected, the mayor or president of the governing body of any such town, township, incorporated town, borough, or police, sanitary and improvement commission shall nominate and appoint, with the advice and consent of the town committee, common council, board of commissioners or other governing body, three commissioners, who shall be residents and freeholders in said town, borough or commission; that said commissioners shall have power to purchase a proper site or building already erected for said armory and to alter or remodel the same; and in case a building already erected is not purchased, to have plans and specifications prepared for the erection of said armory, advertise for proposals for the erection of the same, and award the contract or contracts for the erection thereof, and generally superintend the same during its course of erection or remodeling; and said commission shall serve without compensation; and that the payments for the site purchase, remodeling or cost of erection of said armory shall be paid by the municipal authorities of said town, borough or police, sanitary and improvement commission having the management and control of the finances of such town, borough or commission, upon the certificate of said commissioners, from time to time given to and filed with such last-named financial boards.]

Cost thereof to be
raised in two
annual tax levies.

439. SEC. 3. [That the municipal board of any such town, borough or police, sanitary and improvement commission, having the management and control of the finances of such town, borough or commission, shall appropriate and put in the tax levy of such town, borough or commission, not less than one-half the sum appropriated for said armory at the time of making the next annual appropriation and assessment after the passage of this act, and the balance of said appropriation shall be placed in the next annual appropriation thereafter.]

An act authorizing towns and townships which have heretofore voted an appropriation for public buildings to raise the amount of such appropriation by the issue and sale of the bonds of such town or township.

P. L. 1888, p. 460.

Approved April 23, 1888.

Towns and town-
ships, in certain
cases, may issue
bonds for certain
public buildings.

440. SEC. 1. That where in any town or township of this state the inhabitants thereof shall, at the last annual town election held prior to the passage of this act, have voted or ordered an appropriation for public buildings, it shall be lawful for the council or other governing body of such town or township to raise the amount of such appropriation by the issue and sale of the bonds of such town or township for an amount not exceeding the amount of such appropriation, which bonds shall run for periods not exceeding sixteen years, and shall bear interest at a rate not exceeding six

per centum per annum, and shall not be sold for less than their face value, and with the proceeds of the sale of such bonds to build and erect a town hall, station-house and lock-up and fire engine-houses in such town or township.

441. SEC. 2. That there shall be raised annually by taxation in such town or township a sum sufficient to pay the annual interest on such bonds.

Interest on bonds raised by tax.

An act to enable certain municipal corporations of this state to erect buildings and structures for municipal uses and purposes.

Approved April 10, 1889. P. L. 1889, p. 253.

442. SEC. 1. [Amended by Sec. 444, *post.*]

443. SEC. 2. [Amended by Sec. 445, *post.*]

Amendatory act.

Approved June 9, 1890. P. L. 1890, p. 423.

444. SEC. 1. That said act be amended so as to read as follows :

[That it shall and may be lawful for the common council or other governing body of any city, town or other municipal corporation of this state, incorporated or existing under or by virtue of any special act of incorporation and supplements thereto, to build upon land already owned by such corporation, or to purchase land and build thereon a building or buildings, structure or structures, for municipal uses and purposes ; *provided*, that the cost and expense of any such building or buildings, structure or structures, shall not, in the aggregate, exceed the sum of ten thousand dollars, unless the common council or other governing body of any such city, town or other municipal corporation shall submit the amount in excess of ten thousand dollars necessary for the erection and completion of such building or buildings, structure or structures, aforesaid, to the legal voters thereof for their approval, at any general or special election called for that purpose ; *provided, however*, that such excess shall not exceed the sum of forty thousand dollars.]

Any municipality organized under special act may erect public buildings.

Supplement.

Approved April 2, 1891. P. L. 1891, p. 303.

445. SEC. 1. That the second section of an act entitled "An act to enable certain municipal corporations of this state to erect buildings and structures for municipal uses and purposes," approved April tenth, one thousand eight hundred and eighty-nine, be and the same is hereby amended so as to read as follows :

[That to defray the cost and expense of any building or buildings, structure or structures to be erected under and [in] pursuance of the first section of this act, such corporation may issue bonds in the corporate name of such corporation in sums of not more than one thousand dollars and not less than one hundred dollars each, to be signed by the mayor or other chief officer, and countersigned by the clerk and sealed with the corporate seal of such corporation, and to have written or printed thereon the words "construction bonds," said bonds to be disposed of at not less than their par value, and to draw interest at a rate not exceeding five per centum per annum, payable semi-annually ; and the common council or other governing body of such municipal corporation shall have power to raise the money to pay the principal and interest of said construction bonds as the same mature, in addition to the tax they are now authorized to raise, and in the same manner as other taxes are assessed and raised by such municipal corporations.]

Bonds may be issued in certain cases for public buildings.

446. SEC. 2. That where in any municipality of this state the common council or other governing body of any city, town or municipal corporation of this state incorporated or existing under or by virtue of any law of this state shall also be ex-officio trustees of the fire department of said city, town or municipal corporation, it shall be lawful for them, as trustees of such fire department, to convey, assign, transfer and set over, upon resolution adopted to that effect, the title to any real estate stand-

Trustees of fire department may convey real estate to municipality.

ing in the name of the trustees of such fire department to said city, town or other municipal corporation of this state incorporated or existing under or by virtue of any law of this state; *provided, however*, that such land or real estate shall be used for the purpose of erecting thereon, in whole or in part, a building or buildings, structure or structures for municipal uses or purposes, pursuant to an act to which this is a supplement.

447. SEC. 3. That all acts and parts of acts, general, special or private, inconsistent with this act, be and the same is hereby repealed.

An act providing for the erection of public halls in towns and boroughs in this state.

P. L. 1890, p. 358.

Approved May 23, 1890.

Certain boroughs may erect public hall.

448. SEC. 1. That it shall be lawful for the commissioners or other legislative body of any borough having a population of three thousand inhabitants or over to purchase a suitable lot or tract of land and erect a building for a public hall for the use of the people thereof, to hold their public meetings and have their public offices located therein, the cost of which said lot and building shall not exceed the sum of twenty-five thousand dollars; *provided, however*, that two-thirds of the legal voters in said borough at any public election shall be in favor of the same; those in favor of having a public hall shall each deposit a ballot containing the words "for a public hall," and those who are opposed shall each deposit a ballot with the words "against a public hall;" ten days' public notice shall be given before the day of election in a newspaper circulating in said borough by the clerk thereof, which notice shall definitely state the purpose of said election.

Proviso.

Bonds may be issued.

449. SEC. 2. That if two-thirds of the legal voters in said borough should be in favor of a public hall, then it shall be lawful for the governing body thereof to raise money by the issuing of bonds for the purpose of erecting, providing and properly furnishing a suitable lot and building for the uses and purposes of said borough as aforesaid.

Form and denomination of bonds.

450. SEC. 3. That the said bonds shall state upon their face the purpose for which they were issued, and the term for which such bonds shall run shall not be longer than thirty years, and they shall be redeemable any time after the expiration of five years, at the option of the said borough, and shall be of denomination of not less than five hundred dollars, and shall bear a rate of interest not exceeding four per centum per annum, payable semi-annually, and said bonds shall not be subject to municipal or borough tax.

Payment of bonds, how provided for.

451. SEC. 4. That the amount necessary for the payment of the interest of said bonds shall be placed in the appropriation tax levy to be assessed and raised by taxation as other moneys are raised for the uses and purposes of the borough, together with the sum of one thousand dollars in each and every year, which sum when collected shall be deposited in the sinking fund of the borough, for the liquidation of the principal of the said bonds when due.

VII. Municipal bonds.

An act respecting bonds of cities, towns, townships and other incorporated places.

P. L. 1876, p. 279.

Approved April 21, 1876.

When cost of improvement has exceeded assessments, bonds may be issued for excess.

452. SEC. 1. That in all cases where any commissioners of assessments, board of assessors or other persons having the power and authority, by any act or acts of the legislature of this state, to assess the costs, damages and expenses of any improvement upon the lands or upon the owner or owners thereof benefited by such improvement, shall assess or have assessed upon the same an amount less than the total costs of any improvement now made, 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 in this state, wherein such assessment was or

shall be made, to issue the corporate obligations of such city, town, township or incorporated place for the payment of the amount of the total costs of any such improvements not assessed upon the lands or upon the owner or owners of lands benefited by said improvement, and to sell and dispose of such obligations at their market rates, but not at a discount greater than five per centum; such obligations to be made payable in not less than ten nor more than forty years from the dates thereof respectively, and shall bear interest from the dates thereof at the rate of not over seven per centum per annum, payable semi-annually; and it shall be the duty of all such corporate authorities, and they are hereby required, to raise by special tax the amount of interest accruing and to accrue in each year upon said 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. (a)

Principal and interest to be provided for by special tax.

453. SEC. 2. That in cases where any city council, board of aldermen, township committee or other corporate authority of any city, town, township or other incorporated place in this state have heretofore expended moneys for purposes authorized by their respective acts of incorporation, in excess of the moneys appropriated for such purposes, it shall be lawful for such corporate authorities, or any of them, to issue the corporate obligations of such city, town, township or incorporated place for the amount so expended in excess of the appropriations, which obligations may be issued, sold and disposed of, and the principal and interest shall be made payable and raised by tax, collected, deposited, held and paid in the manner required for the obligations mentioned in the first section of this act; *provided*, that nothing contained in this act shall authorize any common council in this state to fund their floating debt in excess of any restrictions as to the amount of debt they may create contained in their charters or any supplements thereto.

Obligations may be issued for amount expended in excess of appropriations, &c.

Mode of payment.

Proviso.

An act authorizing the incorporated cities, towns and townships of this state to renew matured and maturing bonds.

Approved March 8, 1877.

P. L. 1877, p. 88.

454. SEC. 1. [Amended and supplied by Sec. 456, *post*.]

455. SEC. 2. That the debt hereby authorized and the interest thereon shall be raised and paid by a tax annually levied and collected as other city, town or township 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 aldermen, common council or township committee of any said city, town or township 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 said bonds and all moneys derived from the sale thereof shall be inviolably applied and used for the payment of the said maturing bonds.

Provision for payment of bonds issued for renewal of maturing bonds.

Supplement.

Approved January 29, 1879.

P. L. 1879, p. 11.

456. SEC. 1. That section one of an act entitled "An act authorizing the incorporated cities, towns and townships of this state to renew matured and maturing bonds," approved March eighth, one thousand eight hundred and seventy-seven, which reads as follows [see Sec. 454, *ante*], be amended so as to read as follows:

[That whenever any bonds, heretofore legally issued by any incorporated city, town or township in this state, under the authority of law, are now due and unpaid, or shall hereafter become due, the board of aldermen or

Certain matured and maturing bonds may be renewed.

(a) *Query*—Is this act unconstitutional? See objections of defendant's counsel in *Mutual Benefit Life Insurance Co. v. City of Elizabeth*, 13 Vr. 285, 287.

common council, or township committee or board of finance and taxation of any such city, town or township, may renew ninety-six and two-thirds per centum of said indebtedness, or any less part thereof, by the issuing of the bonds of said city, town or township for that purpose; 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 aldermen, common council, township committee or board of finance and taxation of any such city, town or township, shall by ordinance or resolution determine; which bonds shall be of the denomination of not less than fifty dollars nor more than ten thousand dollars, and shall be executed under the corporate seal of said city, town or township, and the signature of the mayor, comptroller, chairman of the township committee, or other proper financial officer thereof, 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, comptroller, chairman or other proper financial officer, and numbered to correspond with the bond to which they shall respectively be attached, and all the bonds issued under 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, comptroller, chairman or other proper financial officer of said city, town or township, in a book to be provided for that purpose; *provided*, this act shall only apply to bonds for which no sinking fund has heretofore been provided, and that hereafter, on all such bonds re-issued under the provisions of this act, a sinking fund of not less than three per centum per annum, together with the interest on such bonds, shall be raised in the annual tax levy of such cities.]

An act to authorize cities to issue bonds to fund obligations incurred for street improvements.

P. L. 1877, p. 150.

Approved March 9, 1877.

Issue of street improvement bonds authorized.

457. SEC. 1. That it shall be lawful for the governing body of any city in this state to issue bonds of the said city, under the signature of the mayor and city clerk, and with the corporate seal affixed, and countersigned by the proper financial officer of said city, to be styled "street improvement bonds," the aggregate amount of which said bonds shall not at any time exceed two per centum of the amount of the assessed taxable valuation of the said city for the preceding year; the said bonds to be issued in such sums, payable at such time or times, not longer than ten years, and bearing interest, payable semi-annually, at a rate not exceeding seven per centum per annum, as the governing body of such city shall by ordinance prescribe.

Proceeds, how appropriated.

458. SEC. 2. That the proceeds of the said bonds shall be appropriated only to the payment and cancellation of indebtedness incurred by such cities for street improvements, and all moneys received as principal and interest on account of assessments for any street improvement for which such bonds are issued, 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 the said commissioners for the said purpose.

Payment of interest on bonds and investment of surplus.

459. SEC. 3. That it shall be the duty of the said commissioners of the sinking fund in any such city to pay the interest on the above-mentioned bonds as the same shall 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; and in any city where no commissioners of the sinking fund are in existence, the governing body of such city may perform the duties hereby prescribed for such commissioners, or may designate by ordinance a board to perform such duties, and may appoint by resolution the members of such board; *provided, however*, that this act shall not apply to or affect cities of this state having upwards of seven thousand inhabitants.

A supplement to "An act to authorize cities to issue bonds to fund obligations incurred for street improvements," approved March ninth, one thousand eight hundred and seventy-seven, extending the provisions thereof to incorporated townships and boroughs.

Approved March 4, 1880.

P. L. 1880, p. 121.

460. SEC. 1. That for the purpose of paying certificates of indebtedness which have been duly issued by any incorporated township or borough in this state, for street improvements, in anticipation of the collection of the assessments therefor, or for the costs and expenses of making street improvements which cannot be assessed on lands specially benefited by such improvement or improvements, and for the payment of judgments against such township or borough, and for the costs, damages, interest and expenses incurred in and on account of such improvements, it shall be lawful for the board of township committee, or other governing body of said township or borough, to issue either the registered or coupon bonds of such township, to be styled "township or borough of ——— improvement bonds," to such an amount as such board or governing body shall by ordinance determine, not, however, to exceed in the aggregate the amount of outstanding and unpaid certificates of indebtedness, judgments, costs, interest and expenses against such township or borough for such street improvements; such bonds shall be sealed with the corporate seal of such township or borough, signed by the chairman of said board of township committee or governing body, and countersigned and registered by the clerk thereof, and made payable in not less than three nor more than ten years from the date thereof, and shall bear interest at six per centum per annum, payable semi-annually; *provided, however,* that no note or certificate of indebtedness, the validity of which against such township is now in question in any of the courts of this state, nor the amount thereof, nor any portion of the same shall be included in the estimate of indebtedness of such township, nor shall any bond be issued to pay or to raise money to pay the same or any part thereof.

Townships and boroughs may issue bonds to pay certificates of indebtedness which have been issued for street improvements.

Rate of interest.

Proviso.

461. SEC. 2. That the bonds authorized by section one of this supplementary act shall be negotiated or sold at public or private sale at not less than the par or the face value thereof, and the proceeds of such negotiations and sales promptly appropriated and applied to the retirement, payment and cancellation of the certificates, judgments, costs, interest and expenses mentioned in section one of this supplementary act, and to no other purpose whatever.

Bonds not to be sold at less than par, and proceeds of sale how applied.

462. SEC. 3. That all moneys collected and received as principal and interest for and on account of assessments for any street improvements for which such bonds are issued, are hereby pledged and appropriated for the payment of the principal and interest of the bonds hereby authorized to be issued; and all sums of money, or balance over and above the amount necessary to pay the interest and principal of said bonds at maturity, as aforesaid, or that cannot be vested in the purchase of said bonds at par before maturity, shall be safely invested in some readily-convertible securities and applied to the payment of said bonds when the same shall become due and payable.

Moneys collected for assessments for street improvements pledged to payment of bonds.

463. SEC. 4. That it shall be the duty of the township committee, or other governing body of said township or borough, and such committee, or other governing body of said township or borough, is hereby authorized and empowered, by resolution, to fix and determine annually, on or before the second Tuesday in May in each year, how much money is necessary to be raised by taxation to pay the interest on such bonds, and the principal of such bonds as fall due within one year from the time of adopting such resolution, and to order such sum to be assessed and collected for the purpose aforesaid; a copy of which resolution shall be served by the township clerk on the township assessor of such township, and thereupon the sum so ordered to be raised shall be assessed upon all the ratables and taxable property in such township, and collected in the same manner and at the same time that other township taxes are assessed and collected; and the money so raised shall be applied to the payment of such principal and interest falling due on said bonds, and to no other purpose.

Committees to fix and determine annually money necessary to be raised by taxation to pay interest and principal.

Money raised by taxation, how applied.

A supplement to the act entitled "An act to authorize cities to issue bonds to fund obligations incurred for street improvements," approved March ninth, anno domini one thousand eight hundred and seventy-seven.

P. L. 1882, p. 78.

Approved March 9, 1882.

Renewal street improvement bonds may be issued.

Proceeds, how appropriated.

Provisions of former act made applicable.

464. SEC. 1. That it shall be lawful for the governing body of any city in this state which has heretofore issued "street improvement bonds" under the authority conferred by the act to which this is a supplement, to issue bonds of said city to be styled "renewal street improvement bonds;" and that the proceeds of such bonds shall be appropriated only to the payment and cancellation of such "street improvement bonds" heretofore issued by such city, and that the amount of such "renewal street improvement bonds" shall not exceed eighty-five per centum of the amount of the "street improvement bonds" which shall mature and become due within sixty days from the issuing of the bonds herein provided for.

465. SEC. 2. That all the provisions of the said act to which this is a supplement, so far as the same are not inconsistent herewith, are continued in force and made applicable to the bonds hereby authorized.

An act authorizing the issue of bonds in anticipation of the collection of assessments.

P. L. 1878, p. 411.

Approved April 5, 1878.

Loans in anticipation of collection of assessments for benefits authorized in municipalities in counties of over 75,000 inhabitants.

May issue bonds.

How executed.

Denomination of bonds.

Rate of interest.

When such bonds may be issued.

Money received on account of assessments, how applied.

466. SEC. 1. That hereafter it shall be lawful for any city, town or township within this state, in any county having more than seventy-five thousand inhabitants by the last census, by and through the board of aldermen, common council or township committee of any such city, town or township, to provide for the raising and borrowing of money in anticipation of the collection of assessments for benefits for street or sewer improvement in any such city, town or township, 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 under the corporate seal of such city, town or township, to be signed by the mayor of such city or chairman of such town committee, which bonds shall have coupons attached for every half year's interest due, which coupons shall be signed by the said mayor or chairman, and numbered to correspond with the bond to which they shall respectively be attached, and all the bonds issued under this act shall be numbered, and a register of such numbers, the date of issuing and the time of payment, shall be made or caused to be made by the said mayor or chairman of said city, town or township in a book to be provided for that purpose.

467. SEC. 2. That such bonds shall be issued in such sum or sums as the board of aldermen, common council or township committee shall by ordinance or resolution determine, which bonds shall be of the denomination of not less than fifty dollars or more than one thousand dollars, and shall bear interest at the rate of six per centum per annum, payable semi-annually; *provided, however,* that the whole amount of such bonds shall not exceed ninety-five per centum of the whole cost of such improvement, and shall not exceed the amount of such assessment; *and provided further,* that said bonds shall not be sold for less than ninety-eight per centum of their par value.

468. SEC. 3. That such bonds shall only be issued by such city, town or township upon application in writing by two-thirds of the resident owners of the property lying within the assessment area, to the said board of aldermen, common council or township committee for that purpose.

469. SEC. 4. That all moneys received as principal and interest on account of said assessments, for which said bonds shall be issued by the provisions of this act, are hereby pledged and appropriated to the sinking fund of such city, town or township for the payment of the principal and interest of the bonds hereby authorized to be issued.

MUNICIPAL CORPORATIONS.

2225

470. SEC. 5. That the said board of aldermen, common council or township committee of any such city, town or township authorizing the issue of bonds as aforesaid, shall immediately provide a sinking fund for the purposes, as directed in the preceding section; *provided*, that where there are commissioners of the sinking fund of any city, such sinking fund shall be under their management and control.

Sinking fund to be provided.

Proviso.

471. SEC. 6. That the board of aldermen, common council or township committee, when application may be made as aforesaid, shall, by ordinance or resolution, provide for the payment of the said assessment in as many equal annual installments as the said bonds shall be allowed to run, with interest at the rate of eight per centum per annum on said installments, payable semi-annually, and the annual installments and interest shall, by the said owner or owners, be paid to the treasurer of such city or township or to the person or persons authorized by law to receive the same, and shall by him or them be placed to the credit of the sinking fund aforesaid; and in case the said installment or interest, or any installment or interest, shall not be paid by the owner or owners of any lands lying within the assessment area aforesaid on any day whereon the same is made due and payable by said ordinance or resolution, then the said land and real estate may be sold for the amount of said assessment, or such part thereof as may remain unpaid, with interest, costs and expenses, according to the charter of the city, town or township, or the statute regulating the same, and the amount due thereon placed in the sinking fund for the redemption of the bonds aforesaid; if no one bids at such sale, the treasurer of the city or township shall buy in said land and real estate for the benefit of such city or township, as the case may be.

May provide for payment of assessments in equal annual installments.

Land, &c., may be sold on failure to pay any installment or interest.

472. SEC. 7. That nothing in this act shall be construed as giving authority for the issue of bonds by any city, the debt of which is now limited by law, and that this act shall take effect immediately.

Limitation of such issue.

An act authorizing the incorporated cities, towns and townships of this state to renew matured and maturing bonds.

Approved February 18, 1879.

P. L. 1879, p. 22.

473. SEC. 1. That whenever any bonds, heretofore legally issued by any incorporated city, town or township in this state, under the authority of law, are now due and unpaid, or shall hereafter become due, the board of aldermen or common council, or township committee or board of finance and taxation of any such city, town or township, may renew ninety-six and two-thirds per centum of said indebtedness, or any less part thereof, by the issuing of the bonds of said city, town or township for that purpose; 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 aldermen, common council, township committee or board of finance and taxation of any such city, town or township, shall by ordinance or resolution determine, which bonds shall be of the denomination of not less than fifty dollars nor more than ten thousand dollars, and shall be executed under the corporate seal of said city, town or township, and the signature of the mayor, comptroller, chairman of the township committee, or other proper financial officer thereof, 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, comptroller, chairman, or other proper financial officer, and numbered to correspond with the bond to which they shall respectively be attached, and all the bonds issued under 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, comptroller, chairman, or other proper financial officer of said city, town or township, in a book to be provided for that purpose; *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 of aldermen, common council, township committee or board of

Certain matured and maturing bonds may be renewed.

Bonds, how executed.

Proviso.

finance and taxation of any such city, town or township to establish a sinking fund, which shall be created either by a special tax of not less than three per centum on the issue herein provided for, to be raised in the 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 any such city, town or township, or both, at the option of the governing body thereof.

Interest shall be raised and paid by a special tax annually levied and collected.

Bonds not to be sold below par.

474. SEC. 2. That the interest on the bonds hereby authorized to be issued shall be raised and paid by a special tax annually levied and collected as other city, town and township 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 aldermen, common council or township committee, or board of finance and taxation of any said city, town or township, 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 said bonds and all moneys derived from the sale thereof shall be inviolably applied and used for the payment of the said maturing bonds.

Repealer.

475. SEC. 3. That any act or acts or parts thereof inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall be a public act and take effect immediately.

Supplement.

Approved April 11, 1894.

P. L. 1894, p. 57.

Principal and interest provided for by tax.

476. SEC. 1. That in all cases where bonds have been or shall be issued by any board of aldermen or common council or township committee or board of finance and taxation of any city, town or township, in pursuance of the act to which this is a supplement, it shall be lawful for the boards, officers or commissioners that now possess or hereafter may possess authority to levy and collect taxes for any purpose whatever in such city, town or township, when thereunto requested by such board of aldermen, common council, township committee or board of finance and taxation, to annually levy and collect a tax for the payment of the interest and principal when due of any such bonds at the same time and in the same manner that taxes are or may be lawfully levied and collected in such city, town or township for any other purpose or purposes, and the tax so levied and collected shall be appropriated and used for the payment of the interest and principal when due upon such bonds, and for no other purpose whatsoever. (a)

Application of surplus taxes to redemption of such bonds.

All surplus taxes shall be set apart for that purpose.

477. SEC. 2. That the excess of any tax or taxes heretofore levied in any such city, town or township for any purpose whatsoever, not required for the specific purpose or purposes for which the same was levied, shall be and the same is hereby set apart and appropriated to the payment of the interest and principal, when due, of any such bonds; and any tax so levied, which does not exceed the percentage allowed by law to be levied for taxes in any such city, town or township, is hereby ratified and confirmed, notwithstanding any irregularity or supposed irregularity in the levy or assessment of the same; *provided, only*, that at the time of such levy there was authority in such city, town or township to levy such tax, and that the property upon which the same was levied was liable thereto.

Proviso.

Repealer.

478. 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 to authorize the issue of bonds for the erection of public buildings and purchase of fire apparatus.

P. L. 1886, p. 320.

Approved April 28, 1886.

Town or city may issue bonds to erect buildings and equip fire department.

479. SEC. 1. That it shall be lawful for the common council, town committee or other governing body of any town or city of this state to raise money by the issue of bonds for the purpose of erecting, providing and

(a) This act is not intended to legalize taxes levied by a body having no authority to impose them. *Allen v. Township of Bernards*, 28 *Pr.* 303.

properly furnishing suitable buildings for the uses and purposes of the town or city government and all departments created by or existing under it, and for the proper equipment of a fire department with necessary apparatus for protection against fire.

480. SEC. 2. That the said bonds shall state upon their face the purpose for which they were issued; and the term for which such bonds shall run shall not be longer than thirty years, and they shall be redeemable any time after the expiration of five years, at the option of the town or city, and shall be of denomination of not less than five hundred dollars, and the total amount of bonds so issued by authority of this act shall not exceed the sum of thirty thousand dollars, and shall bear a rate of interest not to exceed six per centum per annum, payable semi-annually in the months of January and July; *provided*, the indebtedness of any such municipal corporation shall not be increased so long as the same shall remain in default in the payment of any past-due bonds or the interest thereon; *and provided further*, that this act shall not apply to or become operative in any town or city which now has a town or city hall or building as aforesaid.

Form of bonds.
Amount of bonds to be issued, &c.

481. SEC. 3. That the amount necessary for the payment of the interest of said bonds shall be placed in the appropriations, tax levy or tax ordinance, to be assessed and raised by taxation as other moneys are raised for the uses and purposes of the town or city, together with the sum of one thousand dollars in each and every year, which sum, when collected, shall be deposited in the sinking fund of the town or city for the liquidation of the principal of said bonds when due.

Principal and interest to be raised by tax.

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

Repealer.

An act to regulate the issuing of bonds by municipal corporations.

Approved March 26, 1886.

P. L. 1886, p. 121.

483. SEC. 1. [Amended by Sec. 485, *post*.]

484. SEC. 2. That all acts and parts of acts, special, general, public and private, 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 29, 1887.

P. L. 1887, p. 67.

485. SEC. 1. That section one of an act entitled "An act to regulate the issuing of bonds by municipal corporations," approved March twenty-sixth, one thousand eight hundred and eighty-six, be and the same is hereby amended so that it shall be and shall read as follows:

[That it shall not be lawful for any municipal corporation in this state to issue any bonds whereby the indebtedness of any such municipal corporation shall be increased, so long as any such municipal corporation shall remain in default in the payment of any past-due bonds or the interest thereon, or shall remain in arrears for six months in the payment of any county or state tax, or other legal indebtedness; *provided*, that this act shall not be construed to prohibit or interfere with the issue of bonds or other obligations in anticipation of taxes; *provided, also*, that nothing in this act shall prohibit the issuing of bonds of any municipal corporation for the introduction of water and laying of water pipes, to be connected when so laid with water mains owned by municipal corporations or aqueduct boards.]

Unlawful to issue bonds when default is made in payment of past-due bonds or county or state tax.

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

Repealer.

An act to enable incorporated towns and cities of the third class to provide for payment of arrears of state and county taxes by issue of bonds.

P. L. 1890, p. 157.

Passed March 31, 1890.

County collector may in certain cases receive bonds of town or city of third class in payment of state and county taxes.

487. SEC. 1. That any incorporated town or city of the third class which, at the time of the passage of this act, shall be indebted and in arrears to the county wherein situated for state and county taxes in a sum exceeding twenty thousand dollars, no portion of which sum shall be past due for a period of less than five years, and when there is outstanding, uncollected and due to such town or city for arrears of taxes an amount not less than three times the amount of such indebtedness, then, in such case, it shall be lawful for such town or city to issue bonds for payment of such indebtedness, and it shall be lawful for the county collector to receive said bonds in payment of such indebtedness and arrears of state and county taxes, to be deposited in the sinking fund of the county; *provided*, the county collector shall make demand in writing for the settlement of such indebtedness, in accordance with the provisions of this act, and agree to accept said bonds in payment thereof; and said bonds, when issued and received by the county collector, as herein provided, shall be considered and taken to be as full and legal payment of such indebtedness for state and county taxes as aforesaid, and said bonds shall be considered as part of the funded debt of such town or city, and regarded and dealt with as such in every particular.

Proviso.

Form of bonds.

488. SEC. 2. That bonds issued in accordance with the provisions of this act shall be for a period not longer than twenty years, bearing interest at a rate not to exceed three and one-half per centum, payable semi-annually in the months of January and July of each year; said bonds shall be signed by the president of the common council or other governing body, the clerk and treasurer, or other financial officer of such town or city, and shall be sealed with its corporate seal, and shall be known and designated as tax arrears bonds, and said bonds shall be redeemable any time, at the option of the town or city by which they were issued; and all arrears of taxes due, and not otherwise pledged at the time of the passage of this act to such town or city, shall, when collected, be applied to the liquidation and redemption of said bonds.

Repealer.

489. SEC. 3. That all acts or part 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 any county, city, town or other municipality to convert coupon bonds into registered bonds, and re-convert the same at pleasure.

P. L. 1892, p. 39.

Approved February 25, 1892.

Counties and municipalities may convert coupon bonds into registered bonds.

490. SEC. 1. That whenever under any existing authority of law, or any act that shall hereafter be passed, any county, city, town or municipality in this state shall have power to issue coupon bonds, the board, officer or authority of any county, city, town or municipality shall have power to convert any coupon bonds issued, or hereafter issued, into registered bonds, by cutting off and canceling the coupons attached thereto, and shall write or print on the back of said bond or bonds a certificate of registration, signed by the proper executive officer of the county, city, town or other municipality, which certificates shall state that the within bond is hereby converted into a registered bond, with the interest payable thereon semi-annually, and from and thereafter the contract made by the bond shall be converted into one, making the principal of the bond payable at the time stated in the body of the bond, and the interest thereon payable semi-annually to the person in whose name the registry of said bond shall be made, or his assignee or legal representative; that by assignment of the person in whose name the said registry shall be made, the proper officers of said county, city, town or other municipality are authorized to register the same from time to time, in the names of the party authorized to have such registry by the consent of the holder of said bond and said municipality.

491. SEC. 2. That said bonds thus registered may, with the consent of the said county, city, town or other municipality and that of the holder of said bonds, be re-converted into coupon bonds at the expense of the holders of said bonds and again re-converted into registered bonds from time to time as the said municipal authority and the holders of said bonds may determine.

Bonds may be re-converted into coupon bonds.

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

Repealer.

An act to allow municipalities to issue bonds for street improvements.

Approved March 27, 1893.

P. L. 1893, p. 486.

493. SEC. 1. That in all cases wherein commissioners of assessments, board of assessors or other persons having the power and authority by any act or acts of the legislature of this state, to assess the costs, damages and expenses of any improvements upon the lands or upon the owner or owners thereof benefited by such improvement, shall assess or have assessed upon the same an amount less than the total cost of any improvement, it shall be lawful for the authorities of any municipality wherein such assessment was, or shall hereafter be made, to issue the corporate obligations of such municipality for the payment of the amount of the cost of any such improvements not assessed upon the land or upon the owner or owners of land benefited by such improvement.

Bonds may be issued for excess of costs of improvement over benefits.

494. SEC. 2. That for the payment of the costs of such improvements in excess of the amount so assessed as aforesaid, the corporate authorities of any such municipality may issue by ordinance, bonds or obligations of such municipality for the payment thereof, which said bonds shall in no case exceed the sum of seventy-five thousand dollars, and shall not bear more than five per centum interest, and to be sold for not less than par; said ordinance shall distinctly specify and provide the ways and means and the manner of payment of said bonds and the interest thereof, and shall be irrevocable until all of said bonds shall be paid.

Bonds not to exceed \$75,000.

495. SEC. 3. That the amount for which bonds shall be issued by any municipality 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.

Such bonds may exceed limitation in charter as to bonded indebtedness.

An act authorizing the towns and townships of this state to renew matured and maturing bonds.

Approved April 30, 1894.

P. L. 1894, p. 162.

496. SEC. 1. That whenever any bonds heretofore legally issued by any town or township in this state, under the authority of law, are now due and unpaid or shall hereafter become due, the common council or township committee of any such town or township may renew sixty per centum of said indebtedness, or any less part thereof, by the issuing of the bonds of said town or township for that purpose; which bonds may 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 five per centum per annum, and be issued in such sums as the common council or township committee of any town or township 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 designated as renewal bonds, and shall be executed in same manner as the matured and maturing bonds are executed, 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 mayor, chairman or other proper financial officer and numbered to correspond with the bond to which they shall respectively be attached; *provided*, that in order to redeem the bonds issued under the provisions of this act at maturity, it shall be the duty of the common council or township committee, immediately preceding the time when any

Towns and townships may renew sixty per cent. of matured and maturing bonds.

Denomination and designation of bonds.

May be coupon or registered.

Special tax shall be levied to pay bonds.

of said bonds shall be due, to cause a special tax to be levied and collected as other town or township taxes are or may hereafter be levied and collected, the proceeds of which said tax shall be applied to the payment of said bonds as they mature.

Interest on bonds, how provided for.

497. SEC. 2. That the interest on said bonds shall be raised and paid by a tax annually levied and collected as other town or township taxes are now or may hereafter be levied and collected; and the common council or township committee of any said town or township may dispose of said bonds either at 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 said bonds and all moneys derived from the sale thereof shall be inviolably applied and used for the payment of the said matured and maturing bonds.

Repealer.

498. SEC. 3. That any act or acts, or parts, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall be a public act and take effect immediately.

VIII. Wards.

An act to provide for the division of incorporated towns, townships and boroughs into wards, and to regulate representation therein.

P. L. 1886, p. 20.

Passed February 15, 1886.

Preamble.

WHEREAS, In the incorporated towns, townships and boroughs of this state, members of the municipal governing body are, in most cases, elected on a general ticket; and whereas, representation based, in the main, on subdivisions of the body corporate, is better suited to populous communities; therefore,

Certain towns, townships and boroughs, not heretofore divided into wards, may be so divided.

499. SEC. 1. That in cases wherein any incorporated town, township or borough not already divided into municipal subdivisions, electing their own representatives to the municipal governing body, there have been polled at the last presidential or other subsequent election, or whenever in any such municipality there shall hereafter be polled at any future election more than fifteen hundred legal votes, it shall be the duty of the township committee or other governing body of said municipality, at least fifteen days before any annual municipal election succeeding the approval of this act, in case such votes have been heretofore polled, and in other cases at least fifteen days before any annual municipal election succeeding such future election at which such votes may be hereafter polled, by resolution passed by a majority of their number, at a special meeting held for that purpose, of which meeting notice in writing, signed by the clerk of said municipality, shall be set up at five of the most public places therein, for at least five days prior to said meeting, to divide said incorporated town, township or borough into not more than three wards, having regard, in making said division, to equality of representation, and to the lines of any existing polling districts, and to designate such wards by names or numbers; *provided, however,* that no division into wards as aforesaid shall be made unless the question of making such division shall have been previously submitted to the legal voters of such incorporated town, township or borough at the annual municipal election, or at an election to be held for that purpose, nor unless a majority of the legal votes cast at such election shall be in favor of making a division into wards in the manner in this section provided.

Proviso.

Representation in governing body after division into wards.

500. SEC. 2. That from and after the annual municipal election next succeeding such division, the township committee or other governing body of every such incorporated town, township or borough, shall consist of five persons, in case said division is into two wards, and of seven persons, in case said division is into three wards, two of whom shall be elected by the legal voters of each ward, and one of whom shall be elected by the legal voters of the municipality at large; that at the annual municipal election next succeeding such division, the legal voters in each ward shall elect, by ballot, one person to serve as a member of the township committee or other governing body for the term of one year, and one for the term of two years; and the legal voters of said municipality, voting in their

respective wards, shall, at the same time, elect one person from the municipality at large to serve as a member for the term of one year; and annually thereafter there shall be elected in and for each ward, one person to serve as a member of said governing body for the term of two years, and by the legal voters of the municipality at large, voting in their respective wards, one member for the term of one year.

501. SEC. 3. That in cases wherein any incorporated town, township or borough, already divided into wards or municipal subdivisions, electing their own representatives to the municipal governing body, by whatever name said subdivisions may be called in the act or acts creating the same, there have been polled in any such ward or subdivision, at the last presidential or any subsequent election, more than one thousand legal votes, or whenever, in any future election, there shall be polled in any such subdivision or ward in any incorporated town, township or borough, more than one thousand legal votes, it shall be the duty of the governing body of said municipality, at least fifteen days before the annual municipal election next succeeding the approval of this act, in case such votes have been heretofore polled, and in other cases at least fifteen days before the annual municipal election next succeeding such future election at which such votes may be hereafter polled, by resolution passed by a majority of their number, at a special meeting held for that purpose, of which meeting notice in writing signed by the clerk of said municipality, shall be set up at five of the most public places therein, for at least five days prior to said meeting, to divide said ward or municipal subdivision into two wards, having regard, in making said division, to equality of representation, and to the lines of any existing polling district, and to designate said wards by names or numbers, and that thereafter all the subdivisions of said municipality electing their own representatives to the municipal governing body shall be denominated and known as wards and not otherwise; and it shall be the duty of said township committee or other governing body of said municipality to designate such wards by names or numbers.

Certain towns, &c., heretofore divided into wards, may be again divided.

502. SEC. 4. That from and after the annual municipal election next succeeding such division of a ward or municipal subdivision into two wards, each ward thereby created shall have the same representation in the township committee or other governing body to which the subdivision or ward so divided was, at the time of said division, entitled, under the terms of the act or acts regulating representation therein, and that at the annual municipal election next succeeding such division the legal voters of each ward thereby created shall elect, by ballot, the municipal representative or representatives to which such ward shall be entitled as aforesaid, for the same term or terms prescribed for representatives chosen at the first election held in the municipal subdivision or ward so divided, in and by the act or acts regulating representation therein, and shall annually thereafter elect, by ballot, the municipal representative or representatives to which said ward shall be entitled as aforesaid; *provided*, that if at the date of the first election under this act the term of office of a member of the township committee or other governing body theretofore elected to represent the municipal subdivision or ward so divided shall not have expired, then and in that case such member shall serve out his term of office as a representative of the ward in which his residence may be.

Wards entitled to representation in township committee or governing body.

Proviso.

503. SEC. 5. That all acts and parts of acts, whether general or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

Supplement.

Approved February 12, 1895.

P. L. 1895, p. 64.

504. SEC. 1. That in cases wherein any incorporated town, township or borough shall have been or shall hereafter be divided into not more than three wards, pursuant to the provisions of the act to which this is a supplement, and there shall have been polled in any one of such wards at any subsequent election more than six hundred legal votes, it shall be lawful for the governing body of said municipality, at least fifteen days

Provisions for re-division of wards.

MUNICIPAL CORPORATIONS.

before the annual municipal election next succeeding the approval of this act, in case such votes have been heretofore polled, and in other cases at least fifteen days before the annual municipal election next succeeding such future election at which such votes may be hereafter polled, by resolution passed by a majority of their number at a special meeting held for that purpose, of which meeting notice, in writing, signed by the clerk of said municipality, shall be set up at five of the most public places therein, for at least five days prior to said meeting, to redivide said incorporated town, township or borough into not less than three and not more than five wards, each of which shall consist of contiguous territory, having regard in making such division to equality of representation and to designate such wards by names or numbers.

How governing body shall be constituted and elected after such redivision.

505. SEC. 2. That from and after the annual municipal election next succeeding such redivision the township committee or other governing body of every such incorporated town, township or borough shall consist of seven persons, in case said division is into three wards, and of nine persons in case said division is into five wards, two of whom shall be elected by the legal voters of each ward, and one of whom shall be elected by the legal voters of the municipality at large; that at the annual municipal election next succeeding such division the legal voters of each ward shall elect by ballot one person to serve as a member of the township committee or other governing body for the term of one year, and one for the term of two years, and the legal voters of said municipality, voting in their respective wards, shall at the same time elect one person from the municipality at large to serve as a member for the term of one year, and annually thereafter there shall be elected in and for each ward one person to serve as a member of said governing body for the term of two years, and by the legal voters of the municipality at large, voting in their respective wards, one member for the term of one year; *provided*, that if at the date of the first election under this supplementary act the term of office of a member of the township committee or other governing body theretofore elected to represent a municipal subdivision or ward shall not have expired, then and in that case such member shall serve out his term of office as a representative of the ward in which his residence may be, and nothing in this act shall be so construed as to give more than two ward representatives to any ward.

Proviso.

Provisions for improvement of streets, &c., within any particular ward.

506. SEC. 3. That in cases wherein any incorporated town, township or borough shall have been divided into four or more wards under the provisions of this act, and the legal voters resident in any one of said wards, and owning more than one-half in assessed value of the real estate in such ward, shall petition the township committee, or other governing body of said municipality, within ten days after the organization of said governing body, and request that the money to be levied, assessed and collected within such ward for that year for street paving, road repairs, road construction, crosswalks, sidewalks, street lighting and water purposes shall be expended for said purposes within the limits of said ward, then it shall not be lawful for the said governing body to expend the money assessed and collected for the said purposes within said ward, otherwise than in accordance with the request of such petition, unless such expenditure thereof shall be assented to by both of the representatives of said ward in said governing body.

Repealer.

507. SEC. 4. 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 providing for the division of certain towns, boroughs, townships and municipal corporations of this state into wards, and fixing the number of members of which the council, committee or governing body thereof shall be composed, and prescribing their terms of office and manner of election.

Approved March 20, 1891.

P. L. 1891, p. 201.

508. SEC. 1. That the council, town committee or governing body, by whatsoever name called, of any town, borough or township having a special charter, or other municipal corporation existing under and governed by a special act of incorporation, containing now or hereafter more than ten thousand inhabitants, are hereby authorized and empowered by resolution adopted by the votes of two-thirds of all the members thereof, to divide such town, borough, township or municipal corporation into not less than three nor more than five wards, which resolution shall define the boundaries of each ward, and a copy of the same duly certified by the town or municipal clerk shall be forthwith filed in the office of the secretary of state.

Certain towns, boroughs and townships may be divided into wards.

509. SEC. 2. That from and after such division into wards the council, town committee or governing body of such town, borough, township or municipal corporation shall consist of twice as many members as there shall be wards, and one additional member to be styled "member-at-large," each of whom shall, except as hereinafter provided, hold office for the term of two years; the legal voters of each ward shall elect two members, and the additional member shall be elected by all the legal voters of such town, borough, township or municipal corporation, and he shall, by virtue of such election, become and be chairman of the council, town committee or governing body of the town, borough, township or municipal corporation in which he is thus elected; *provided, however*, that at the first town or charter election held after such division into wards one member shall be elected from each ward for one year and one for two years, the terms of office to be designated on the ballots used at such election, and thereafter one member shall be elected annually to serve two years; *and provided further*, that all members of such council, town committee or governing body holding office at the time of any division into wards shall serve out the full terms for which they were respectively elected, representing therein the wards in which they shall happen to reside, and no member shall be elected from any ward until its representation therein shall by expiration of term or otherwise become less than two members.

Constitution of governing body after such division.

510. SEC. 3. That all vacancies shall be filled by appointment of the council, town committee or governing body aforesaid until the next annual town or charter election, when the vacancy shall be filled by election for the unexpired portion of the term in the manner hereinbefore provided.

Vacancies in office, how filled.

511. SEC. 4. That until subdivided into election districts as authorized by law, each ward shall constitute one election district.

Each ward an election district.

512. SEC. 5. That the board of election in each ward shall canvass and declare the result of the election for members of the council, town committee or governing body as aforesaid to be elected from the ward, and shall furnish a certificate of election to the candidate or candidates declared to be elected; and the returns of election for member-at-large and all other officers shall be canvassed and the result declared by a board of canvassers to be composed of one member of each board of election chosen by each board of election, who shall meet together for that purpose on the Friday succeeding the election, at the usual place of meeting of the council, town committee, or governing body of such town, borough, township or municipal corporation, and who shall furnish a certificate of election to each candidate declared to be elected.

Duties of election board.

513. SEC. 6. That this act shall not affect or apply to any city in this state.

Not to affect cities.

514. SEC. 7. That all acts and parts of acts, general, special, local, public or private, inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

IX. Licenses.

An act respecting licenses in cities, incorporated boroughs, or police, sanitary and improvement commissions, and incorporated camp meeting associations or seaside resorts.

P. L. 1881, p. 299.

Approved March 25, 1881.

515. SEC. 1. [Amended and supplied by Sec. 517, *post.*]

Amendatory act.

P. L. 1882, p. 228.

Approved March 31, 1882.

516. SEC. 1. [Amended and supplied by Sec. 517, *post.*]

Supplement.

P. L. 1885, p. 317.

Approved May 2, 1885.

517. SEC. 1. That section one of the act to which this is a supplement be amended so that the same shall read as follows :

Common council,
&c., may pass
ordinances to
license hacks, cars,
auctioneers, &c.

[That it shall be lawful for the common council, board of aldermen or other governing body of any city, incorporated borough, or police, sanitary and improvement commission, incorporated camp meeting association or seaside resort in this state, to make and establish ordinances for the following purposes: to license and regulate cartmen, porters, hacks, cars, omnibuses, milk wagons, 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 vendors of medicines and remedies, and persons professing and practicing the healing art, and also the place or places and 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 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 purposes, and to fix and prescribe penalties for the violation of any such ordinance or ordinances, and that the fees for such licenses may be imposed for revenue; *provided*, that no person or persons shall be required to take out a license for the selling of any product of his farm situated in this state.](a)

An act to authorize cities and boroughs to provide, by ordinance, for the licensing, regulating, restraining and taxing of auctions and auctioneers.

P. L. 1882, p. 35.

Approved March 1, 1882.

Cities and boroughs to provide by ordinance for licensing auctions and auctioneers.

518. SEC. 1. That the board of aldermen, common council or other legislative body of every incorporated city or borough within this state shall have power to provide, by ordinance, for licensing, regulating, restraining and taxing of auctions within the corporate limits of said city or borough, and of auctioneers carrying on or intending to carry on their said business within said limits, and to fix penalties for the violation of the same, and to prescribe the manner of collecting said penalties and of enforcing said ordinances.

Repealer.

519. 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.

(a) The prosecutor was licensed as a cartman in the city of Plainfield, where he resided. At his stand there he was hired to go into the borough of North Plainfield for two loads of furniture to be carted from the borough into the city. For fulfilling this contract without paying a revenue tax to, and obtaining a license from, the borough, he was fined under a borough ordinance. *Held*, that he had not become subject to taxation in the borough, under the provisions of the above act, and that the fine was illegal. *Cary v. North Plainfield*, 20 Vr. 110. This act did not repeal a section of the charter of Cape

May city which empowered the city council to impose penalties, not exceeding \$100, for the violation of ordinances, there being no repugnancy between that section and this act. *Haynes v. Cope May*, 21 Vr. 36, 23 Vr. 180. A license fee, expressed to be for the purpose of raising revenue, is valid under this act, but an ordinance discriminating against a non-resident applicant for a license, by imposing a greater fee on him than on a resident within the city, is unreasonable and void. *Morgan v. Orange*, 21 Vr. 389.

An act to provide for the licensing and regulating of milk dealers and their agents in cities, incorporated boroughs, or police, sanitary and improvement commissions, and incorporated camp meeting associations or seaside resorts.

Approved March 10, 1882. P. L. 1882, p. 87.

520. SEC. 1. That it shall be lawful for the common council, board of aldermen or other governing body of any city, incorporated borough, police, sanitary or improvement commission, incorporated camp meeting association or seaside resort, to provide for the appointing of a milk inspector or of milk inspectors for their respective municipal corporations, to prescribe their duties and to fix their salaries, and further to provide for the licensing and regulating of all persons engaged, either as principals or as agents, in the sale of milk within their respective corporate limits, and to require as a prerequisite to engaging in such business a yearly license fee to be paid by the person, firm, or corporation conducting said business.

Appointment of milk inspectors.

Licenses to milk dealers.

521. SEC. 2. That each license shall allow the person, firm or corporation licensed, or his or their agent or agents named in such license, to sell milk within the corporate limits of the municipal corporation granting the license from one store or stand, from one cart or wagon, or from one pail or other receptacle carried in the hand; *provided*, that nothing herein contained shall limit the number of licenses which may be granted to any person, firm or corporation.

Effect of license.

522. SEC. 3. That the aforesaid municipal corporations shall have power to fix and establish fines and penalties, not exceeding fifty dollars for each offense, for the selling of milk without a license, and for the violation of any rule, regulation or ordinance established for the regulating of the sale of milk within their respective corporate limits; and that such fines and penalties shall be recovered as other fines and penalties are or may be recovered in the respective municipal corporations.

Fines and penalties may be imposed.

523. SEC. 4. That at least two-thirds of the sum collected in any municipal corporation in one year from milk license fees shall in that year be expended in paying the salaries and expenses of a competent inspector or competent inspectors of milk for said municipal corporation.

Sum collected from license fees, how expended.

524. SEC. 5. That it shall be the duty of each inspector, in addition to the duties imposed upon him by the municipal corporation appointing him, to keep a complete record of all his daily doings and proceedings as inspector, giving a full account of each inspection or examination of milk made by him, including the name of the person, firm or corporation owning or claiming to own the milk inspected, the names of the agents in charge, the place and manner in which the said milk was offered for sale, together with the results of each test and analysis; that said records shall be the property of the respective municipal corporations and shall at all times be subject to their control.

Powers and duties of milk inspector.

525. SEC. 6. That it shall be the duty of each inspector to make complaint against all persons discovered by him in the violation of any rule, regulation or ordinance which may be passed in conformity to the provisions of this act.

Inspector to make complaint against persons violating ordinance.

526. SEC. 7. That each inspector appointed by a municipal corporation shall have the same power, authority, rights and privileges, and shall perform the same duties within the corporate limits of the municipal corporation for which he is appointed as are now or may hereafter be possessed and performed by the state inspector of milk; *provided*, that all penalties collected in any suit instituted by him under the laws of this state governing and regulating the adulteration of milk and the sale of milk, shall be paid into the treasury of the municipal corporation for which he acts, and the expense of such suits shall be borne by said municipal corporation.

Inspector to have same power and authority as state inspector.

527. SEC. 8. That no person twice convicted of knowingly violating the state law governing the sale of milk or the adulterating of milk, shall, for the space of two years, be allowed to conduct or be engaged in the business of selling milk within any municipal corporation in this state; that his

Persons twice convicted of violating state law not allowed to sell milk within two years and license to be void.

license, if he have one, shall be void, and no new license shall be granted to him for the space of two years.

Repealer.

528. SEC. 9. That all other acts and parts of acts authorizing the imposition of a license fee upon any person engaged in the milk business, and all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

An act to authorize cities and boroughs to provide by ordinance for the licensing, regulating and restraining of persons and vehicles for the sprinkling of streets with pure water.

P. L. 1889, p. 375.

Approved May 7, 1889.

Municipal authorities may provide by ordinance for licensing persons and vehicles for sprinkling streets.

529. SEC. 1. That it shall and may be lawful for the common council, board of aldermen or other governing body of any city or borough within this state to make and establish ordinances for the following purposes, videlicet: to license persons to engage in the business of sprinkling the streets of said cities and boroughs respectively with pure water, and to license and regulate the vehicles to be used for the sprinkling of such streets, and to regulate the manner in which streets shall be sprinkled, and to prohibit all persons and all vehicles unlicensed from acting, using or being used in said capacities and for such uses and purposes, and to fix and prescribe penalties for the violation of any such ordinance or ordinances, and that the fees for such licenses may be imposed for revenue.

Any fire engine company, &c., may be so licensed.

530. SEC. 2. That upon the adoption of ordinance as aforesaid, any fire engine, hose or hook and ladder company, whether said company be incorporated or not, and whether located in said city or borough or not, may be licensed under said ordinance by the name by which said company is commonly known or designated.

An act respecting licenses in cities, townships, incorporated towns, incorporated boroughs, or police, sanitary and improvement commissions, and incorporated camp meeting associations and seaside resorts.

P. L. 1890, p. 150.

Approved March 31, 1890.

531. SEC. 1. [Amended by Sec. 532, *post.*]

Amendatory act.

P. L. 1894, p. 393.

Approved May 16, 1894.

532. SEC. 1. That the first section of the above-mentioned act be and the same is hereby amended so as to read as follows:

Municipal authorities may license cartmen, porters, hacks, &c.

[That it shall be lawful for the common council, board of aldermen, township committee or other governing body of any city, township, incorporated town, incorporated borough or police, sanitary and improvement commission, incorporated camp meeting association or seaside resort in this state, to make and establish ordinances for the following purposes, namely, 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 purposes, and to fix and prescribe penalties for the violation of any 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, or to sell meat, milk, bread or cake.] (a) Proviso.

An act providing for the licensing of dogs.

Approved March 15, 1893.

P. L. 1893, p. 323.

533. SEC. 1. That it shall and may be lawful for the board of aldermen, common council, township committee, or other governing body of any city, town, borough, township and other municipality of this state, on or before the first day of May in each and every year, to provide by resolution the amount of a license fee for the ensuing year to be paid by the owner of every dog within such city, town, borough or other municipality; and the harboring of a dog or dogs shall be evidence of ownership for the purposes of such license. (b)

License fee for dogs may be imposed.

534. SEC. 2. That the amount of such license fee, when so fixed, shall be assessed and collected at the same time and in the same manner that other taxes are assessed and collected; and the assessment for such license fees shall be in addition to the amount which such common council, township committee, or other governing body are or may be authorized to raise by taxation for other purposes.

Such license fees, how collected.

535. SEC. 3. That the amount of such license fees, when collected, shall be appropriated and applied by the board of aldermen, common council, township committee, or other governing body of the municipality wherein the same shall be collected, towards the payment of the general expenses of such municipality.

Such license fees, when collected, how appropriated.

536. SEC. 4. That for the purposes of this act any portion of any township incorporated as a city, town, borough or village be considered as a distinct municipality from the rest of such township.

Construction of term "municipality."

537. SEC. 5. 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 not be construed to limit, or in any manner abridge any other or greater power that may be possessed by the governing body of any city, town, borough, township, or other municipality of this state, respecting the licensing of dogs.

Repealer, &c.

X. Miscellaneous acts.

An act in relation to the expenditure of public money by municipal corporations.

Approved April 4, 1871.

P. L. 1871, p. 92.

538. SEC. 1. That it shall not be lawful for the board of chosen freeholders, or the township committee, or common council, or commissioners of any county, city, township, town or borough in this state to pay or disburse out of any of the moneys of the said county, city or town, or township or borough, to any person, unless the person claiming or receiving said moneys shall first present to the party or parties paying any such moneys a detailed bill of items or demand, specifying, particularly, how such bill or demand is made up, and the dates and the names of the persons to whom the amounts composing such bill or demand were severally paid, with the affidavit of the party claiming payment of said bill or demand that the same is correct; that any disbursing officer is authorized to take said affidavit without cost. (c)

No bill against county, city, township, &c., to be paid unless itemized and sworn to.

(a) A merchant dealing in groceries in New York City, from which he supplied his customers, employed the prosecutor to drive his wagon to his customers in Englewood and take their orders and afterwards deliver the goods ordered. The prosecutor did not sell or deliver goods in any other way, and neither he nor the merchant had a license, as required by the ordinance. *Held*, that the prosecutor was not a hawker, peddler or itinerant vender within the meaning of the statute. *Hewson v. Englewood*, 28 *Vr.* 522.

(b) This act supersedes any power of exacting license fees for dogs which the city of Newark possessed under its charter. It also confers the licensing power as a means of raising revenue. *Mulcahy v. Newark*, 28 *Vr.* 513.

(c) Twenty-seven bills were contracted by the finance committee of the city of Rahway, and on being presented to the city treasurer, without affidavit, were paid by him. He then

presented to the common council a single bill in his own favor for the aggregate of the sums so paid, with his own affidavit that it was just and true. *Held*, that this bill did not comply with the above act. *Held, also*, that the treasurer had neglected his official duty, to audit the bills and report thereon to the common council, by paying the same before making such report, inasmuch as he had thereby disqualified himself from auditing and reporting upon the bills impartially. *Langstaff v. Daly*, 20 *Vr.* 403. *Mandamus* will not issue to compel the mayor to sign a warrant for the payment of a bill against the city, which is passed by the common council, without being sworn to. *Berry v. Rahway*, 21 *Vr.* 356. That a claim presented to the freeholders was unverified will not, under the general issue, defeat the claim. *Downie v. Passaic*, 25 *Vr.* 223. See, also, *Rulon v. Woolwich*, 26 *Vr.* 494.

MUNICIPAL CORPORATIONS.

An act to provide for the summary investigation of county and municipal expenditures.

P. L. 1879, p. 27.

Approved February 18, 1879.

539. SEC. 1. [Amended and supplied by Sec. 540, *post.*]

Supplement.

Approved March 15, 1881.

P. L. 1881, p. 114.

540. SEC. 1. That the first section of an act entitled "An act to provide for the summary investigation of county and municipal expenditures," approved February eighteenth, one thousand eight hundred and seventy-nine, be and the same is hereby amended so as to read as follows:

Justice of supreme court may make summary investigation into affairs of county, city, &c.

[That if twenty-five freeholders in any incorporated village, borough, town or city, or in any township or county in this state, shall present to any justice of the supreme court an affidavit, sworn to and subscribed by themselves, and setting forth that they are freeholders and have paid taxes on real estate within one year, and that they have cause to believe that the moneys of such incorporated village, borough, town or city, or of such township or county, are being or have been unlawfully or corruptly expended, it shall be the duty of such justice, upon ten days' notice to the disbursing officer and the legislative body of such village, borough, town, city, township or county, to make a summary investigation into the affairs of such corporation, and, at his discretion, he may appoint experts to prosecute such investigation, and may cause the results thereof to be published in such manner as he may deem proper; it shall be the duty of the officers and the legislative body of any such corporation to obey any orders of such justice for facilitating such investigation, and any refusal or failure to obey such orders may be punished by such justice as for contempt; the costs incurred under this act shall be taxed by said justice and paid upon his order by the disbursing officer of the corporation whose expenditure may have been investigated.]

Penalty for refusal or failure to obey order of court.

Taxing and payment of costs.

An act providing for additional powers and certain changes in the government of certain localities governed by commissioners.

P. L. 1884, p. 204.

Passed April 17, 1884.

541. SEC. 1. [Amended and supplied by Sec. 558, *post.*]

542. SEC. 2. [Amended and supplied by Sec. 559, *post.*]

Collector of localities governed by commissioners to give bond.

543. SEC. 3. That the collector, who shall act as treasurer, shall give bonds satisfactory to the said board, possess the powers and perform the duties, and be subject to the same penalties as the collectors of the several townships in this state, and shall receive all moneys assessed in said place; and for said services he shall receive a yearly compensation not to exceed three hundred dollars, and in addition thereto the costs accruing upon collection of delinquent taxes, and upon the receipt of the duplicate of assessment of taxes, shall proceed in the collection thereof as is now required by law to be done by the collectors of the several townships of this state.

Powers, duties and compensation of assessors.

544. SEC. 4. That the assessor shall possess the same powers and perform the duties in the same manner as the assessors in the several townships in this state; for which services he shall be paid at the same rate and in the same proportion as the assessors of the several townships in this state, and immediately after the first Monday in June in each and every year shall proceed to make, and by the fifteenth of July following shall have made, a full and fair valuation, enumeration and assessment of all the taxable real and personal property in such commission, according to law and the requirements of the ordinances of said board of commissioners, and on or before the first Monday in August shall deliver the duplicate of such assessment to the collector.

Officers to take oath.

545. SEC. 5. That the persons elected and those appointed to the several offices in such place shall, within twenty days after such election or appointment, take and subscribe an oath, before some officer authorized by the

laws of this state to administer oaths, that they will faithfully perform the duties of said offices to which they are elected or appointed; and if any person elected or appointed to any office in such place shall not so qualify within said time, his office shall be deemed vacant.

On failure, office deemed vacant.

546. SEC. 6. That in case of vacancy in any elective or appointive office in such place, occasioned by death, resignation, inability, disqualification, removal from office, or neglect or refusal to act or other cause, it shall be lawful for the said board to appoint others in their stead, to fill such offices for the unexpired term thereof.

Vacancies in office, how filled.

547. SEC. 7. That there shall be a clerk of such board, to be hereafter called the clerk of the commissioners, who shall be appointed by the said board; he shall hold office for the term of one year, and be removable from such office by the said board for cause at any time; that the clerk of the commissioners shall also be clerk of the police court, and shall exercise and perform the same duties and powers as the clerks of courts of record in this state, and that said clerk, in connection with his other duties, shall make and publish a statement of the receipts, disbursements and financial condition of such commission in the months of November and April of each and every year, and shall give bond, with sufficient sureties to be approved by the board of commissioners, conditioned that he will faithfully perform the duties of such office of clerk, and will account for all moneys received by him as such clerk; he shall receive for his services a yearly salary, to be fixed by the board of commissioners, not to exceed the sum of five hundred dollars.

Appointment and duties of clerk of commissioners.

548. SEC. 8. That there shall be a police justice of such place, who shall be appointed by the board of commissioners and shall hold office for the term of one year, removable from such office by the board of commissioners for sufficient cause at any time; he shall have, use and exercise the like authority and jurisdiction, with the like procedure in all criminal matters and complaints arising in such place, as the justices of the peace in and for the several counties of this state are or may be by law entitled to have, use and exercise; and said police court shall be a court of record; he shall be empowered, on oath or affirmation filed in his office that any person or persons has or have violated any of the ordinances of such board, to issue process, either a warrant or summons, as the case may require, against the person or persons so charged, returnable at the same time and in the same manner as like process is returnable in the justices' courts of this state; such process shall state the ordinance or ordinances violated, the time or times when the same were violated and in what manner; and he shall hear and determine such complaints; and if such person or persons so charged be adjudged guilty, shall issue execution in accordance with the ordinances of such board in such case made and provided; the clerk shall pay over to the treasurer all fees, fines and other moneys by him received and collected as clerk of the police court; and said police justice shall receive for his services a yearly salary, to be fixed by said board, not to exceed the sum of six hundred dollars.

Appointment, powers and duties of police justice.

549. SEC. 9. That policemen may be appointed by the board of commissioners, who shall, in addition to the authority conferred upon them by the ordinances and regulations of such board or such place, or any special or general law applicable to such place, have, possess and exercise all the powers of constables in this state.

Compensation.

Policemen to possess powers of constables.

550. SEC. 10. That such place shall have the same election officers as the several townships in this state, who shall conduct the elections of such place on such day or days fixed for the same, in the same manner and under the same regulations as prescribed by law for state elections in townships or election precincts for members of the legislature; such election officers shall receive for their services the same compensation as is now fixed by law to be paid to the election officers of the several townships in this state for the like services.

Election officers, duties of.

551. SEC. 11. [Amended and supplied by Sec. 560, *post.*]

Powers and duties
of board of com-
missioners.

552. SEC. 12. That the board of commissioners may, from time to time, establish such ordinances and regulations as it may deem necessary and advisable for the security, health, government and protection of such place and its inhabitants; it may require railroad companies, the tracks of which extend across any of the streets or avenues of such place, to keep flagmen at the principal streets which will be sufficient protection to travelers against danger from passing trains; it may regulate the widening, leveling, grading, watering, flagging and reflagging, curbing and recurbing, guttering and reguttering, paving and repaving, and graveling of the sidewalks and gutters in such commission; the laying of drains and construction and maintenance of sewers and culverts in any of the streets, avenues, highways or sections thereof in such commission; it may prescribe the manner in which any such work shall be performed and the mode in which the expense thereof shall be ascertained, and may cause such expense or any portion thereof not exceeding the special benefit, to be assessed, in just and equitable proportions, on the property benefited, in proportion to the benefit received, whether improved or unimproved, no assessment upon any property to exceed the special benefit thereto, and determine the time and manner in which such assessment shall be collected; it may provide for the watering or sprinkling of the streets, highways and avenues of such commission; prescribe the manner in which such work shall be performed and the mode in which the expense thereof shall be ascertained, and may cause such expense, or any portion thereof, to be assessed in just and equitable proportions upon the owners of lands fronting on such street, highway or avenue, whether improved or unimproved, according to the relative values of such lands; it may establish and regulate one or more pounds in such place; restrain and regulate the running at large of horses, cattle, swine and other animals, geese and other poultry, and authorize the impounding and sale of the same for the penalty incurred, and the costs of keeping and impounding and sale.

553. SEC. 13. [Amended and supplied by Sec. 561, *post.*]

Township com-
mittees to pay
over money
assessed and col-
lected for road
purposes to board
of commissioners.

554. SEC. 14. That no township committee of the township in which such place shall be situated shall have authority to supervise the expenditure of any money assessed and collected in such place for road purposes, but the same when collected shall be immediately paid over by the township collector to the treasurer or proper custodian of the moneys of such board, to be by them expended on the streets in such place, under the direction of the street commissioner or board of commissioners, whether such street shall have been laid out by surveyors of the highway, by ordinance of the commissioners or otherwise, or shall have been dedicated to the use of the public. (*a*)

County clerk to
pay over all
money received
for licenses to
treasurer of board
of commissioners.

555. SEC. 15. That when any license or licenses shall be granted by the court of common pleas of any county in which such commissions are situate, to keep an inn or tavern, or saloon for the sale of malt liquors in such commissions, the money received by the clerks of such counties for granting such licenses shall be paid over by the clerks of such counties to the treasurer of such board for the use of such board and place.

556. SEC. 16. [Amended and supplied by Sec. 562, *post.*]

557. SEC. 17. [Amended and supplied by Sec. 563, *post.*]

Supplement.

Passed March 25, 1885.

P. L. 1885, p. 142.

558. SEC. 1. That section one of "An act providing for additional powers and certain changes in the government of certain localities governed by commissioners," and passed April seventeenth, eighteen hundred and eighty-four, shall be and the same is hereby amended to read as follows:

Elective members
of board to be
legal voters of
municipality.

[That in all municipalities in this state, governed by a board of commissioners, whether the same be chosen by the people or appointed by the supreme court, or however they may be selected, the elective members of such boards shall be legal voters of such locality.]

(*a*) This section is unconstitutional as a special or local law regulating the internal affairs of towns. *Ross v. Winsor*, 19 Vr. 95. *Long Branch v. Sloane*, 20 Vr. 358.

MUNICIPAL CORPORATIONS.

2241

559. SEC. 2. That the second section shall be and is hereby amended to read as follows :

[That there shall be elected by the legal voters in such place at each annual election for members of such boards of commissioners, which election shall be held on the third Tuesday in January in each year, at which time also shall be appointed such members as are appointed by the supreme court, or however such members may be selected, one collector of taxes, one board of assessors, to consist of not more than three members, who shall hold office for the term of one year ; the said collector of taxes shall enter in suitable books, to be kept for that purpose, the sums received by him for taxes respectively, with the names of persons on whose account the same shall be paid each day.]

Annual election for collector of taxes and board of assessors.

560. SEC. 3. That the eleventh section shall be and is hereby amended to read as follows :

[That the commissioners shall have power to raise by tax such sum or sums of money as it may deem necessary and expedient for carrying on the government of such place ; *provided*, that the rate of taxation in any one year shall not exceed the proportion of three dollars on one thousand dollars of the valuation of the real and personal property in such place ; to borrow money and negotiate temporary loans in anticipation of taxes for any current year not exceeding in amount ten thousand dollars, such temporary loans to be paid within the current year within which such loans are made.] (a)

Commissioners empowered to raise money by tax.

561. SEC. 4. That the thirteenth section shall be and is hereby amended to read as follows :

[That it shall be lawful for the board of commissioners, whenever in their opinion the public good requires it, by ordinance, to lay out and open any street, road, highway or alley within said district ; 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 such purpose any lands and real estate upon making compensation to the owner or owners thereof, such compensation and the expenses arising from such improvements to be assessed upon the property lying within the corporate boundaries of such commission, and to be assessed and collected as are other taxes assessed and collected.]

Commissioners may lay out streets, roads, &c.

Expenses, how assessed and collected.

562. SEC. 5. That the sixteenth section be and the same is hereby amended to read as follows :

[That all acts and parts of acts, general, special, local or otherwise, inconsistent with the provisions of this act and the supplements and amendments thereto, be and the same are hereby repealed.]

Repealer.

563. SEC. 6. That the seventeenth section shall be and is hereby amended to read as follows :

[That this act shall take effect immediately, but its provisions shall remain inoperative until assented to by a majority of the legal voters of such locality, voting at any regular municipal election of such place, or special election held for such purpose, as directed by the commissioners or other governing body of such locality, of which election the clerk of such commission shall give notice of the time and place of its being held, in the same way and manner as is provided for advertising the municipal elections of such locality, at which election there shall be printed or written, or partly printed and partly written, upon ballots, "for this act and the amendments," and printed or written, or partly printed and partly written, upon ballots, "against this act and the amendments," and the election officers of said election shall return to the commissioners, or other governing body of such locality, a true and correct statement in writing, under their hands, of the results of said election in reference to the "act and its amendments," the same to be entered at large upon the minutes of said commissioners, and if it be found that a majority of the ballots cast have upon them "for the act and the amendments," then this act and this supple-

Act inoperative until assented to by majority of legal voters of municipality, &c.

(a) In *Alsbath v. Philbrick*, 21 Vr. 581, it was held that this section, providing a different method of levying taxes in boroughs which are seaside resorts from that provided for in other

boroughs, is special and, so, unconstitutional. Compare, however, Sec. 558, *supra*, with P. L. 1884, p. 204, § 1.

Compare, how-

MUNICIPAL CORPORATIONS.

ment shall be lawful and of full effect, but if a majority of ballots cast have upon them "against the act and the amendments," then said act shall remain in force as before it was amended.]

Supplement.

Approved April 20, 1885.

P. L. 1885, p. 277.

Election of commissioners of appeal.

564. SEC. 1. That in the absence of any provision in the act of incorporation of any place governed by commissioners, there shall be elected by the legal voters in such place, at each annual election for members of such board of commissioners, three commissioners of appeal in cases of taxation, who shall possess the powers within such place, perform the duties, be subject to the same penalties, receive the same compensation (to be paid by said board of commissioners), and sit at the same time as the commissioners of appeal of the several townships of this state.

Vacancies, how filled.

565. SEC. 2. That in case of vacancy in said office, occasioned by death, resignation, inability, disqualification, removal from office or neglect or refusal to act or other cause, it shall be lawful for the board of commissioners of such place to appoint others in their stead to fill such office for the unexpired term thereof.

Supplement.

Passed March 9, 1886.

P. L. 1886, p. 80.

May adopt a municipal title and change election day.

566. SEC. 1. That in all municipalities governed by a board of commissioners, it shall be lawful for the governing board, by ordinance, to adopt a municipal title designating such municipality, and appoint an earlier date than the second Tuesday in May for holding the municipal elections.

May adopt title designating board. Repealer.

567. SEC. 2. That said board of commissioners may, by ordinance, adopt a title designating said board of commissioners.

568. SEC. 3. 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.

An act enabling a change of name of certain municipalities incorporated as commissions.

Passed March 9, 1885.

P. L. 1885, p. 58.

Change of name of commissions, how effected.

569. SEC. 1. That when the citizens of any municipality, which has been incorporated as the _____ commission, or the commission of _____, shall desire to change such corporate name to that of _____ or the city of _____, it shall be lawful for the legal voters of such commission, at any municipal or special election, called in accordance with the provisions of this act, to vote for or against such change of name. (a)

Election for such purpose, how conducted.

570. SEC. 2. That when application shall be made to the governing board of such commission for such change of name, such governing board shall cause the clerk of such commission to advertise, in the same way and manner as the municipal elections are advertised, that such change of name will be voted for at the following election, and shall cause to be placed on the ballots at such election the words "for the adoption of the name of city," or "against the adoption of the name of city," and the election officers, with the other election returns, shall make return to the governing board of such commission a true and correct statement in writing, under their hands, of the result of the election with reference to the change of name, the same to be entered at large upon the minutes of said board.

Governing board, how styled.

571. SEC. 3. That after such change of name shall have been adopted, the governing board of such municipality shall be known and styled as "council."

Provisions of charter not affected by change of name.

572. SEC. 4. That all the provisions of the charters of such municipalities, except so much as refers to the name, all ordinances, resolutions and official acts ordained, passed or executed as commissions, shall remain

(a) Districts which have become cities by a popular vote, under this act, are distinguished, and not regarded, as municipalities referred to generally in the acts of legislature. *Duffy v. Britton*, 18 Vt. 252.

(a) Districts which have become cities by a popular vote, under this act, are distinguished, and not regarded, as municipalities referred to generally in the acts of legislature. *Duffy v. Britton*, 18 Vt. 252.

legal and of full effect in such places as shall adopt the name of "city," and all provisions, ordinances, resolutions and official acts ordained, passed or executed under the name of city, shall be legal and of full force and effect as if passed, ordained or executed under the name of commission.

573. SEC. 5. That all acts or parts of acts, whether special or general, not consistent with the provisions of this act, be and the same are hereby repealed, and this act take effect immediately.

Repealer.

An act concerning unexpended balances of taxes collected in cities.

Approved March 25, 1885.

P. L. 1885, p. 170.

574. SEC. 1. That it shall be lawful for the council or other legislative body of any city in this state to transfer and carry forward by ordinance any unexpended balance or balances of taxes that have been or may be levied in any city for any purpose, and appropriate the same to the payment in subsequent years of expenses for objects similar to those for which such taxes were levied, or to the payment of any expense or existing indebtedness for which the city is authorized to levy taxes; *provided*, that said ordinance 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 balances so transferred and carried forward shall be used and applied exclusively for the purposes mentioned and prescribed in the said ordinance; said ordinance shall not be passed until after the close of the fiscal year in which such taxes were levied. (a)

Unexpended balances of taxes in cities may be transferred and carried forward by ordinance.

Proviso.

575. SEC. 2. That nothing in this act shall be construed to increase the limit of taxation in any city, but the amount so carried forward shall be taken and considered as part of the amount of the tax levy authorized to be made in the year to which the same is applied; and no such ordinance shall be passed or adopted to carry forward or transfer any taxes, whether collected or not, that have been or may be pledged to secure any loan or in anticipation of the collection of which any loan has been or may be made until such loans are paid.

Act not to be construed to increase limit of taxation, &c.

An act to authorize certain boards of commissioners and improvement commissions to change the date of their annual elections.

Approved March 22, 1886.

P. L. 1886, p. 98.

576. SEC. 1. That it shall be lawful for any board of commissioners or any improvement commission in any town or village, or within any townships in this state, to change, by ordinance, the date of the election for commissioners and for the appropriation of moneys, to an earlier date than that now fixed by law, whenever, in the judgment of such board or commission, the public interests will be promoted by such change; *provided*, that nothing herein contained shall have the effect of extending the term of office of any members of such board now in office.

Date of electing board of commissioners may be changed, &c.

577. SEC. 2. That the ordinance for such change shall be published in one or more of the newspapers printed and circulated within the limits of the jurisdiction of said commission at least three weeks before the same shall go into effect and be operative.

Ordinance for such change to be published.

An act to authorize the cities and other municipalities of this state to devote to other public use lands held for burial purposes, and to make provision for the removal and protection of the remains interred therein.

Approved June 29, 1886.

P. L. 1886, p. 411.

578. SEC. 1. That where lands held by the cities or municipalities of this state for burial purposes are or may be affected by any trust that they shall be devoted to that use, and in the judgment of the common council or other governing body the public good will be served by devoting such

Certain lands held for burial purposes may be devoted to other public uses.

(a) Under this act, it is not necessary that the transfer of unexpended balances of taxes should be made in the annual tax ordinance. The ordinance transferring such balances

should show the precise amount to be transferred and the sum appropriated to each specific object or fund. *Bacon v. Elizabeth*, 22 Fr. 246.

lands to other public uses, it shall and may be lawful in every such case to use such lands for any public purpose or use to which, in the judgment of the common council or other governing body, they are best adapted.

Common council to provide for disinterment of bodies.

579. SEC. 2. That in case interments have at any time been made on such lands, or any part thereof, the common council or other governing body shall cause the remains so interred to be removed to some suitable and proper burial place, and make proper and reasonable provision therefor and for the protection thereof, and to this end may make such reasonable appropriation of public moneys as may be necessary.

An act to incorporate improvement societies in towns, villages and boroughs.

P. L. 1887, p. 13.

Passed March 9, 1887.

Improvement societies, how incorporated in towns, villages and boroughs.

580. SEC. 1. That in any town, village or borough it shall be lawful for any number of persons not less than ten to associate together for the purpose of public improvement, and, for the better accomplishment of such purpose, to plant trees and shrubbery, to establish and maintain a public park, a public reading-room and course of lectures, and social and benevolent assemblies in such way and method as shall promote the external appearance and the material progress, good order and health, and social and intellectual culture of said town, village or borough; and for the purpose of obtaining and maintaining a public park, it shall be lawful for said association to purchase, or receive by gift or devise, any land not exceeding ten acres, and said land, so long as it is open for the public benefit, shall be free from all taxation, but buildings erected thereon shall not be exempt.

Election of trustees.

581. SEC. 2. That the said association, upon due notice, in writing, and posted at least ten days previously, may elect at any regular meeting, or one specially called for the purpose, and annually thereafter, any of their own number, not less than three, to be trustees of the said association, by any name which they may assume.

Certificate of association to be filed with county clerk.

582. SEC. 3. That it shall be lawful for the trustees thus elected to make and file a certificate with the clerk of the county certifying the name which they have assumed and the objects of the association, and upon making and recording such certificate the said persons and their successors shall become and be a body politic and corporate, and possessed of all the powers mentioned and set forth in the first section of the act concerning corporations.

An act to confer the authority of changing the name of a town or village upon the court of common pleas.

P. L. 1887, p. 76.

Approved March 31, 1887.

Towns and villages may change their names.

583. SEC. 1. That whenever it may be desirable to change the name of any town or village in any county in this state, a petition for that purpose may be filed in the court of common pleas for such county, signed by at least twelve landholders within the limits of said town or village, setting forth the cause why such change is desirable, and the name desired to be substituted, and the court, upon being satisfied by proof that the prayer of the petition is just and reasonable, and that thirty days' previous notice of the intended application to the court had been duly given in some newspaper of general circulation in such county; and that the inhabitants of such town or village, or a majority thereof, desire such change; and that there is no other town or village in this state with the same name with that which is asked for, the court may order a change of the name of such town or village as desired in said petition.

County clerk to record proceedings.

584. SEC. 2. That it shall be the duty of the clerk of the county to record the proceedings under this act, and all such proceedings shall be at the cost of the petitioners at such sum as the court may direct.

An act to enable certain municipal corporations of this state to raise increased sums of money for public purposes.

Approved February 22, 1888. P. L. 1888, p. 95.

585. SEC. 1. [Amended by Sec. 586, *post.*]

Amendatory act.

Approved March 14, 1895. P. L. 1895, p. 284.

586. SEC. 1. That section one of an act entitled "An act to enable certain municipal corporations of this state to raise increased sums of money for public purposes," approved February twenty-second, one thousand eight hundred and eighty-eight, be and the same is hereby amended to read as follows :

[That where any city, town or other municipal corporation of this state, incorporated or existing under or by virtue of any special act of incorporation, is now limited by its charter or act of incorporation, or any supplement thereto, to raise by taxation in any one year a less sum than thirty thousand dollars, it shall and may be lawful for the governing body of any such city, town or other municipal corporation, by whatever name such governing body may be called or designated, in the discretion of such governing body and by a majority vote thereof, to order and raise by taxation, in any year or years, any sum, not exceeding thirty thousand dollars, as such governing body may deem necessary and proper, anything in any such special act of incorporation, charter, or supplement thereto to the contrary notwithstanding.]

Power of municipalities to increase amount of taxes limited in charter.

An act concerning consolidated cities and annexed municipalities and townships and portions thereof. (1)

Passed March 30, 1888. P. L. 1888, p. 330.

587. SEC. 1. That whenever one or more cities, boroughs, towns or townships, or portions thereof, shall be annexed to or consolidated with any city by or pursuant to any general or special law, immediately upon such annexation or consolidation taking effect the charter of the city to which such municipality or municipalities and township or townships, or portions thereof, shall be annexed or added, and the supplements thereto, and all general laws affecting the same, and the ordinances and regulations of such city, shall extend to and have the same force and effect within the territories of the municipalities and townships and portions thereof so annexed to or consolidated with said city as the same shall have theretofore had within the original limits of such city; and the charter or charters of any municipality or municipalities the entire territory or territories of which shall be annexed to or consolidated with the territory of such city, and the supplements thereto, shall be deemed and taken, and are hereby declared to be repealed immediately upon such annexation or consolidation taking effect; *provided*, that such repeal shall not operate to affect any right which any such annexed municipality or any person shall have acquired under or by virtue of the law or laws so repealed; *and provided further*, that all ordinances and regulations of such annexed municipality or municipalities, so far as the same may be consistent with the charter and ordinances of such city, shall continue in full force and effect until the same shall be lawfully repealed, rescinded or altered by the proper authorities of such city.

The charter of any city to extend to all annexed municipalities and territories.

588. SEC. 2. That the persons resident within the territorial limits of such city and such territory annexed to or consolidated therewith, and their successors, upon such annexation or consolidation taking effect, shall be, as a municipal corporation, under and by the corporate name of such city, and they are hereby declared so to be, absolutely and completely vested with all the lands, tenements, hereditaments, property, rights, causes of action and estate whatsoever, both at law and in equity, in pos-

Property of annexed territories to be vested in the consolidated municipality.

(1) See the act contained in Secs. 613 to 622, *post.*

MUNICIPAL CORPORATIONS.

Proviso.

City liable for indebtedness of annexed municipalities.

Provisions as to paupers.

Allotment and division of paupers, property, moneys and indebtedness, where part only of a municipality or township is annexed.

Proviso.

City entitled to its proportion of surplus revenue of general government.

session, reversion and remainder, which at the time of such annexation or consolidation shall take effect shall be vested in, or of right belong to such city and to such annexed municipality or municipalities, township or townships; *provided*, that nothing in this act contained shall affect any suit or suits which shall be pending at the time of such annexation or consolidation in the name of such city or of any such annexed municipality or township; and the collection of all taxes and assessments of all such annexed municipalities standing at the time of such annexation or consolidation, shall be effected in the manner prescribed by the respective charters, ordinances and regulations of such annexed municipalities.

589. SEC. 3. That such city to which such municipality or municipalities, or township or townships, or parts thereof shall be annexed shall be liable to pay the bonded and other indebtedness of every municipality and township so annexed thereto, and a ratable proportion of the indebtedness of any municipality or township, a portion of the territory of which shall be so annexed thereto, which proportionate indebtedness shall be ascertained in the manner hereinafter provided; all paupers chargeable to any municipality or township, the whole territory of which shall be annexed to or consolidated with such city, shall be chargeable to and shall be supported by such city; and all paupers who at the time such annexation or consolidation shall take effect may be chargeable to or supported by any municipality or township, a part of the territory of which shall be annexed to or consolidated with such city, shall be chargeable to and supported by either such city or such municipality or township, as would have been the case had such annexation or consolidation taken place before such paupers, respectively, acquired the legal settlements by virtue of which they shall be supported.

590. SEC. 4. That on the eighth Monday after any such annexation or consolidation shall take effect a committee of three, to be appointed by the board of aldermen, common council, or other governing board of such city, and a committee of three to be appointed by the board of aldermen, common council or other governing board of each municipality, and by the township committee of each township, a part only of the territory of which shall be annexed to or consolidated with such city, shall meet at the city hall of such city, at ten o'clock in the forenoon of said day, and shall then and there, or as soon thereafter as may be, proceed to allot and divide between such city and such municipality or municipalities and township or townships, all the paupers of such municipality or municipalities and township or townships, and all the property and moneys on hand or due to, and all the indebtedness of such municipality or municipalities and township or townships respectively, in proportion to the taxable property and ratables within the respective limits of such municipality or municipalities and township or townships as the same shall remain, and the part or parts thereof which shall be so annexed to or consolidated with such city; and such apportionment of assets and debts shall be based upon the last abstract of ratables made for the purpose of levying taxes; and such city shall be liable for its part of the debts of such municipality or municipalities and township or townships, so ascertained, and shall be entitled to its share of the moneys and properties thereof in proportion to such ratables as divided as aforesaid; in effecting such division the decision of a majority of those present of the committee of such city and of the committee of such municipality or township, the debts and property of which are being divided, shall be final and conclusive, the members of the committees of other municipalities and townships present for the purpose of making such division having no voice therein; if any member of any of said committees shall neglect or refuse to attend such meeting, those assembled may act; *provided*, that it shall be lawful to adjourn said meeting from time to time, not exceeding one week, as a majority of said committee may decide.

591. SEC. 5. That such city shall be entitled to its proportion, according to the principle stated in the preceding section, and to be allotted and divided by the same committee, of the surplus revenue of the general government which may be deposited with such municipality or municipalities

and township or townships, and the interest due thereon; and such municipality or municipalities and township or townships shall be discharged from liability for, and such city shall become liable for so much of said surplus revenue as may be allotted to it.

592. SEC. 6. That all officers of such city, for the choice of whose successors no provision is herein made, shall continue in office until the expiration of their respective terms; all commissioners of deeds, justices of the peace and constables resident within the territories annexed to such city shall continue to hold their respective offices until the expiration of their respective terms; and all police officers of any municipality the entire territory of which shall be annexed to or consolidated with such city, shall continue to hold their offices, and to exercise the functions and powers thereof as provided by the ordinances, rules and regulations of such city, and under the marshal or chief of police thereof, until their successors shall be regularly appointed by the proper authorities of such city; until their successors shall be chosen, and while they shall remain in such positions, they shall receive from such city the same pay that they shall have received from the municipality of which they were officers before such annexation or consolidation.

Officers to continue in office until expiration of terms.

593. SEC. 7. That upon the presentation to the justice of the supreme court assigned to the judicial circuit in which such city shall be situated, of a petition signed by five or more qualified electors resident within the territory annexed to or consolidated with such city, setting forth the fact of such annexation or consolidation, and praying that the territory so annexed or consolidated with such city may be divided into wards, such justice, on being satisfied of the sufficiency of such petition, shall appoint a time not less than ten and not more than thirty days from the date of the presentation of said petition to him, and a place within such city when and where he will sit to hear and consider such petition, notice of which hearing, and the time and place thereof, shall be published at least twice, in two of the daily newspapers published in such city, and posted in at least five of the most public places of the territory so annexed or consolidated with such city; at the place and time so appointed, or at a time to which such hearing shall be adjourned, the said justice, or in case of his absence or disability, any other justice of the supreme court whom he may select, shall sit to hear and decide upon such petition, and upon being satisfied of the truth of the matters therein contained, he shall appoint from the qualified voters being resident freeholders within the enlarged boundaries of such city, four commissioners, not more than two of whom shall be members of any one political party; to divide the territory so annexed or consolidated with such city into wards, and to perform the other duties required of them by the provisions of this act; before acting the said commissioners shall take and subscribe to an oath to well, truly and impartially perform their duties as such officers, which oath shall be filed in the office of the clerk of the county in which such consolidated city shall be situated; the said commissioners shall at once proceed to divide the territory so annexed or consolidated with such city into wards in as fair a manner as may be, and shall make such division with reference to population and territory, but shall erect no ward which shall have at the time of its erection a population of less than twenty-three hundred, and shall complete said division within fifteen days after their appointment; *provided*, that they shall erect no ward which shall not lie entirely within the boundaries of one assembly district; if the commissioners shall neglect or fail to make such division within fifteen days after their appointment, it shall be the duty of the common council, board of aldermen or other governing body of the city to or with which such territory is or may be annexed or consolidated, forthwith to make such division; when the boundary lines of the wards of the territory so annexed or consolidated with such city shall have been settled and defined by the commissioners, or by the common council or other governing body as aforesaid, said commissioners, common council or other governing body, shall prepare triplicate written descriptions of said boundary lines, and shall annex to each description a map of the said

Proceedings for division of annexed territory into wards.

Appointment of commissioners.

To take oath.

Proviso.

Description and map of boundary lines to be filed.

boundary lines, a majority of whom shall sign their names thereto, and shall file one of said copies and maps in the office of the clerk of such city, another of such copies and maps in the office of the clerk of the county in which such city shall be situate, and the third of said copies and maps in the office of the secretary of state; and a map of the said ward lines shall be recorded in the city atlas of such city; and from and after the date of filing such descriptions and maps in the said offices the boundaries of the wards of the territory so annexed or consolidated with such city shall be as described and delineated in said descriptions and maps; if any of the commissioners shall fail or refuse to qualify or act, or shall die or become ineligible, the fact shall be certified by any of the acting commissioners to the justice or to his successor, and the said justice or his successor shall appoint a proper person to fill such vacancy; in acting under the provisions of this act the justice may adjourn his sittings from time to time, and the commissioners may adjourn their sessions from time to time, but no such adjournment of the commissioners shall be for a longer period than one week; the said commissioners, while actually in session, shall each receive the sum of three dollars for each day, which said moneys shall be paid to them out of the treasury of such city.

Commissioners to divide wards into election districts, &c.

594. SEC. 8. That as soon as may be after the division of the territory so annexed or consolidated with such city into wards as aforesaid, the officers or body who so divided said territory into wards shall divide each of said wards of said city into at least two election districts, and shall designate a polling place in each of said districts; and shall appoint for each district a judge, two inspectors and a clerk of election, to conduct the special election hereinafter provided for; and they shall thereupon file with the clerk of the city a writing signed by themselves or a majority thereof, which writing shall describe the boundaries of the several election districts within the territory so annexed or consolidated with such city, and shall state the names of the election officers so appointed by them for each of such districts, and the offices to which they shall have been severally appointed; as soon as such paper shall have been filed in his office, the clerk of such city shall give notice of a special election to be held in the territory so annexed or consolidated with such city at least ten and not more than twenty days after the publication of such notice for the election of officers; and he shall publish with such notice a description of the boundary lines of the election districts of the city, and the names of the election officers in each district; such notice shall be published at least five times in two or more of the daily newspapers published in such city, and shall be posted for at least five days before the election in five of the most public places in each ward within the territory so annexed or consolidated with such city.

Description to be filed with city clerk.

Notice of special election.

595. SEC. 9. That the said election shall be conducted under the pains and penalties, and according to the provisions (so far as the same may be applicable thereto) of an act entitled "An act to regulate elections," approved April eighteenth, one thousand eight hundred and seventy-six [Revision], and the supplements thereto; *provided*, that no registration of voters shall be required for such election.

How election conducted.

Proviso.

596. SEC. 10. That on the day appointed for such election there shall be elected in each of the wards within the territory so annexed or consolidated with such city, as many members of the board of aldermen, common council, or other governing board of such city, and as many members of the board of school trustees or board of education as may be elected from the other wards of said city, and also one chosen freholder; there shall also be elected one judge of election, two inspectors and one clerk of election for each election district in said wards; the members of the board of aldermen, common council or other governing body, and the members of the board of school trustees or board of education shall be elected to serve, one of each until his successor shall be chosen at the next annual charter election of said city, another until his successor shall be chosen at the second annual charter election, and the third (if there be a third member), until his successor shall be chosen at the third annual charter election of such city to be held thereafter; and the time for which each of said officers

Officers to be elected at special election.

is to be elected to serve shall be written or printed under his name upon the ballot to be cast, and any ballot which shall not designate such terms of service shall be rejected as to such officers.

597. SEC. 11. That upon the election of such officers, the offices held by the members of the theretofore existing board of aldermen, common council, township committee or other governing board of the territory or any portion of the territory so annexed or consolidated with such city, and the former election officers and chosen freeholders resident therein, shall and the same are hereby declared to be forthwith vacated and abolished.

When elected offices of former officers abolished.

An act authorizing all incorporated towns, boroughs, police, sanitary and improvement commissions, and all places governed by commissions in this state, to change the time of holding the municipal elections therein.

Approved March 16, 1891.

P. L. 1891, p. 147.

598. SEC. 1. That it shall be lawful for the governing body of any incorporated town, borough, police, sanitary and improvement commission, and any municipality governed by a board of commissioners by whatsoever name said municipality may be designated, by ordinance to change the time of holding the municipal election therein to an earlier date than now prescribed by law for holding the same.

Towns, boroughs, villages, &c., may by ordinance change time of holding municipal elections.

599. SEC. 2. That said governing body shall cause notice to be given of the time and place when they intend to consider said proposed ordinance, by publishing said notice for two weeks successively prior to the time fixed for the consideration of said proposed ordinance, at least once in each week, in some newspaper published in said municipality, and by posting for the same length of time said notice in at least twenty of the most conspicuous places in said municipality; and in any municipality in which no newspaper is published, said notice need only be posted as aforesaid.

Notice of considering such ordinance to be given.

600. SEC. 3. That if at the time so designated for the consideration of said proposed ordinance, there are filed with said governing body written objections against changing the time of holding said election, signed by at least one-half of all the persons who voted at the next preceding municipal election, said proposed ordinance shall not be passed, but all proceedings in said matter shall at once cease and determine; and it shall be unlawful to again proceed to make such change within one year.

What objections shall defeat ordinance.

601. SEC. 4. That if at the time so fixed for considering said ordinance, no objections as hereinbefore specified shall have been filed in accordance with the provisions aforesaid, it shall be lawful for the said governing body, in its discretion, by a vote of at least three-fourths of all its members, to pass an ordinance changing the time of holding the municipal elections in such municipality to the time specified in said ordinance.

By what vote ordinance may be passed.

602. SEC. 5. That said ordinance shall not operate to shorten the term of office of any member of said governing body, unless such member shall file with the clerk of said governing body his written consent to that effect, and in that case his term of office shall cease the day of the holding of said election.

Terms of officers not shortened by such ordinance except on consent.

603. SEC. 6. That unless each of the members of said governing body shall file the consent hereinbefore required, then the next municipal election shall be held on the day heretofore prescribed by law for holding the same, but the term of office of such member so to be elected shall expire on the day prescribed by said ordinance for holding said elections.

When next election shall be held if all officers do not so consent.

604. SEC. 7. That the municipal elections shall be held in each year thereafter upon the day specified in said ordinance.

When future elections shall be held.

605. SEC. 8. That all officers elected at the first annual municipal election which may be held within forty days after the passage of an ordinance under the provisions of this act changing the time of holding such annual municipal election shall hold office until their successors shall be elected and qualified.

Terms of officers elected at first election.

MUNICIPAL CORPORATIONS.

Date when governing body shall organize.

606. SEC. 9. That the members of such governing body of any incorporated town, borough, police, sanitary and improvement commission and any municipality governed by a board of commissioners, by whatsoever name said municipality may be designated, shall meet, qualify and organize on the Thursday next succeeding such annual election and elect or appoint their officers.

Terms of officers elected at future elections.

607. SEC. 10. That all officers elected at any annual municipal election after the time of holding the same may be changed by ordinance in accordance with the provisions of this act, shall hold offices for the term of one year or until their successors are chosen and qualified.

Repealer.

608. SEC. 11. That all acts, special or public, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act concerning bonds given by municipal officers or employes for the proper performance of official duty.

P. L. 1891, p. 411.

Approved April 14, 1891.

County clerks to record all bonds given by municipal officers.

609. SEC. 1. That hereafter all bonds now or hereafter required to be given by any municipal officer or employe for the proper performance of official duty, whether given directly to a municipality or to some officer or department thereof, shall be recorded in the office of the clerk of the county in which any such municipality may be situated, provided that the governing body of such municipality shall so direct, and copies of said bonds duly certified by said clerk, under the seal of office, shall be received as evidence in any court of this state, and be as good and available in law as if the original bonds were then and there produced.

Proviso.

On application, justice of supreme court may order suit to be brought on any such bond.

610. SEC. 2. That upon application made in writing to the justice of the supreme court who shall hold the circuit court in any county wherein any such municipality is situated, by or on behalf of any such municipality, or by or on behalf of any citizen and taxpayer thereof, alleging that the condition of the bond of any officer or employe of such municipality has been broken, said justice shall make such investigation touching the truth of such allegation as he shall think proper, and, in his discretion, may order suit to be brought upon said bond for the benefit of such municipality or of the officer or department thereof for whose benefit the bond is given.

Bonds not recorded to continue valid.

611. SEC. 3. That nothing herein contained shall invalidate bonds not recorded as herein provided and application for an order for the prosecution of any such bond may be made in the same manner as if the same were recorded.

Bonds may be prosecuted without application to a justice of the supreme court.

612. SEC. 4. That any bond given by any officer or employe of any municipality in this state for the proper performance of official duty, whether given directly to a municipality or to some officer or department thereof, and whether recorded or not, may be prosecuted as heretofore without application to a justice of the supreme court.

An act concerning consolidated cities and towns and annexed townships, and regulating the manner of such annexation and consolidation. (1)

P. L. 1891, p. 456.

Approved April 16, 1891.

Charters of cities and towns to which municipalities and territories have been annexed extended to such annexed parts.

613. SEC. 1. That whenever one or more townships or any part thereof shall be annexed to or consolidated with any city or town by or pursuant to any general or special law, immediately upon such annexation or consolidation taking effect the charter of the city or town to which such township or townships shall be annexed or added and the supplements thereto, and all general laws affecting the same, and the ordinances and regulations of such city or town shall extend to and have the same force and effect within the territory of the township or townships so annexed to or consolidated with such city or town as the same shall have theretofore had within the original limits of such city or town; and the charter or charters

(1) See act contained in Secs. 587 to 597, *ante*.

of any township or townships, the entire territory of which shall be annexed to or consolidated with the territory of such city or town and the supplements thereto, shall be deemed and taken and are hereby declared to be repealed immediately upon such annexation or consolidation taking effect; *provided*, that such repeal shall not operate to affect any right which any such annexed township or any person shall have acquired under or by virtue of the law or laws so repealed; *and provided further*, that all ordinances and regulations of such annexed township or townships, so far as the same may be consistent with the charter and ordinances of such city or town, shall continue in full force and effect until the same shall be lawfully repealed, rescinded or altered by the proper municipal authority of such city or town.

Proviso.

Proviso.

614. SEC. 2. That the persons resident within the territorial limits of such city or town and of the territory of the township or townships annexed to or consolidated therewith and their successors upon such annexation or consolidation taking effect, shall be, as a municipal corporation, under and by the corporate name of such city or town, and they are hereby declared so to be absolutely and completely vested with all the lands, tenements, hereditaments, property, rights, causes of action and estate whatsoever, both at law and in equity, in possession, reversion and remainder, which at the time such annexation or consolidation shall take effect shall be vested in or of right belong to such city or town and to such annexed township or townships; *provided*, that nothing in this act contained shall affect any suit or suits which shall be pending at the time of such annexation or consolidation in the name of such city or town or of any such annexed township; and the collection of all taxes and assessments of all such annexed townships standing at the time of such annexation or consolidation, shall be effected in the manner prescribed by the respective charters, ordinances and regulations of such annexed township or townships.

Property of annexed territories vested in the consolidated municipality.

Proviso.

615. SEC. 3. That such city or town to which such township or townships shall be annexed shall be liable to pay the bonded and other indebtedness of every township so annexed thereto, which indebtedness shall be ascertained in the manner hereinafter provided; all paupers chargeable to any township, the whole territory of which shall be annexed to or consolidated with such city or town, shall be chargeable to and shall be supported by such city or town.

City or town liable to pay indebtedness of annexed townships.

Disposition of paupers.

616. SEC. 4. That on the Monday after any such annexation or consolidation shall take effect a committee of three to be appointed by the board of aldermen, common council, town council or other governing body or board of such city or town, and a committee of three to be appointed by the township committee of the township or townships which shall be annexed to or consolidated with such city or town, shall meet at the city hall or town hall of such city or town, at ten o'clock in the forenoon of said day, and shall then and there, or as soon thereafter as may be, proceed to state an account of all the property, real and personal, all debts, dues and demands, all judgments, recognizances and claims, and all liens, actions and rights of actions belonging to any township so annexed or consolidated, and to state the fair value of the same to the city or town council, common council, board of aldermen or other governing body or board of such city or town; and also to state an account in like manner of all the debts outstanding of any township or townships annexed or consolidated with such city or town, all which property and debts shall thereafter become and be the debt of the whole city or town as consolidated, and for the final payment thereof the faith of the city or town thereby consolidated and the property thereof, as well as all the property of the township or townships annexed or consolidated, shall stand pledged; if any member of any committee so appointed as heretofore provided, shall neglect or refuse to attend such meeting, then those members of such committee so assembled may act as fully as if all were present; *provided*, it shall be lawful for a majority of the whole number of such joint committees to adjourn such meeting from time to time, not exceeding one week.

Provision for taking account of property and debts of annexed townships.

If any member of committee absent, members present to act.

Proviso.

Officers to continue to hold office until expiration of terms, and police officers until successors are regularly appointed.

617. SEC. 5. That all commissioners of deeds, justices of the peace and constables resident within the territory of the township or townships annexed to such city or town shall continue to hold their respective offices until the expiration of their respective terms, and all police officers of any such township so annexed and consolidated with such city or town shall continue to hold their offices and to exercise the functions and powers thereof as provided by the ordinances, rules and regulations of such city or town, and under the marshal or chief of police thereof, until their successors shall be regularly appointed by the proper municipal authorities of such city or town; until their successors shall be chosen, and while they shall remain in such positions they shall receive from such city or town the same pay that they shall have received from the township of which they were officers before such annexation or consolidation.

Provision for dividing annexed townships into wards.

618. SEC. 6. That upon the presentation to the common council, town council, board of aldermen or other governing board or body of such city or town to which such township or townships shall be annexed and consolidated, of a petition signed by twenty-five or more qualified electors, resident within the township annexed to or consolidated with such city or town, setting forth the fact of such annexation or consolidation and praying that the territory so annexed or consolidated with such city may be divided into wards, such common council, town council, board of aldermen or other governing body or board aforesaid shall appoint a time not less than ten nor more than twenty days from the date of the presentation of said petition to such municipal body as aforesaid, and a place within such city or town when and where said municipal body will meet and sit to hear and consider such petition, notice of which hearing and the time and place thereof shall be published at least six times in at least one daily newspaper published or circulating in such city or town, and such notice shall be posted in at least ten of the most public places of the township or townships so annexed or consolidated with such city or town; at the place and time so appointed, or at a time to which such hearing shall be adjourned the said common council, town council, board of aldermen or other governing board or body of such city or town, upon being satisfied of the truth of the matters contained in such petition, shall by resolution appoint from the qualified voters being resident freeholders within the enlarged boundaries of such city or town five commissioners to divide the territory of the township or townships so annexed or consolidated with such city or town into wards and to perform the other duties required of them by the provisions of this act; before acting the said commissioners shall take and subscribe to an oath or affirmation to well, truly and impartially perform their duties as such commissioners, which oath shall be taken before and filed with the clerk of the city or town aforesaid; the said commissioners shall at once proceed to divide the territory of the township or townships so annexed or consolidated with such city or town into wards in as fair a manner as may be, and shall make such divisions with reference to population and territory as to them shall seem best, and shall complete such divisions within ten days after their appointment; *provided*, if the commissioners shall neglect or fail to make such division within ten days after their appointment, it shall be the duty of the common council, town council, board of aldermen or other governing board or body of the city or town to which such township or townships shall be annexed or consolidated forthwith to make such divisions; when the boundary lines of the wards of the territory of the township or townships so annexed or consolidated with such city or town shall have been settled and defined by the commissioners, or by the common council, town council, board of aldermen or other governing board or body of the city or town as aforesaid, such commissioners, common council, town council, board of aldermen or other governing board or body of the city or town shall prepare triplicate written descriptions of said boundary lines and shall annex to each description a map of the said boundary lines, a majority of whom shall sign their names thereto, and shall file one of said copies and maps in the office of the said clerk of such city or town, another of such copies and maps in the office of the clerk of the

Commissioners for making the division.

Commissioners to take oath.

Division to be completed within ten days.

Proviso.

county in which such city or town shall be situated, and the third of the said copies and maps in the office of the secretary of state, and a map of the said ward lines shall be recorded in the city or town atlas of such city or town; and from and after the date of filing such descriptions and maps in the said offices, the boundaries of the wards of the territory so annexed or consolidated with such city or town shall be described and delineated in said descriptions and maps; if any of the said commissioners shall fail or refuse to qualify or act, or shall die or become ineligible, the fact shall be certified by any of the acting commissioners to the common council, town council, board of aldermen or other governing board or body of the city or town to which such township or townships shall be annexed and consolidated, and the said common council, town council, board of aldermen or other governing board or body or its successor or successors shall appoint a proper person to fill such vacancy; in acting under the provisions of this act the common council, town council, board of aldermen or other governing board or body may adjourn its sittings from time to time and the commissioners may adjourn their sessions from time to time, but no such adjournments of the commissioners shall be for a longer period than one week; the said commissioners, while actually in session, shall each receive the sum of five dollars for each day, which said moneys shall be paid to them out of the treasury of such city or town.

619. SEC. 7. That as soon as may be after the division of the territory so annexed or consolidated with such city or town into wards as aforesaid, the officers or body who so divided said territory into wards shall divide each of said wards of said city into at least two election districts, and shall designate a polling place in each of said districts, and shall appoint for each district a judge, two inspectors and a clerk of election to conduct the special election hereinafter provided for; and they shall thereupon file with the clerk of the city or town a writing signed by themselves, or a majority thereof, which writing shall describe the boundaries of the several election districts within the territory so annexed or consolidated with such city or town, and shall state the names of the election officers so appointed by them for each of such districts and the offices to which they shall have been severally appointed; as soon as the paper shall have been filed in his office, the clerk of such city or town shall give notice of a special election to be held in the territory so annexed or consolidated with such city or town at least ten and not more than twenty days after the publication of such notice for the election of officers; and he shall publish with such notice a description of the boundary lines of the election districts of the city or town and the names of the election officers in each district; such notice shall be published at least five times in two or more of the daily newspapers published in said city or town, and shall be posted for at least five days before the election in five of the most public places in each ward within the territory so annexed or consolidated with such city or town.

620. SEC. 8. That the said election shall be conducted under the pains and penalties, and according to the provisions (so far as the same may be applicable thereto), of an act entitled "An act to regulate elections," approved April eighteenth, one thousand eight hundred and seventy-six [Revision], and the supplements thereto; *provided*, that no registration of voters shall be required for such election.

621. SEC. 9. That on the day appointed for such election there shall be elected in each of the wards within the territory so annexed or consolidated with such city or town, as many members of the board of aldermen, common council, town council or other governing body, and as many members of the board of school trustees or board of education as may be elected from the other wards of said city or town; then shall also be elected one judge of election, two inspectors and one clerk of election for each election district in said ward; the members of the board of aldermen, common council, town council or other governing body, and the members of the board of school trustees or board of education shall be elected, one of each, until his successors shall be chosen at the next election of said city or town; another till his successor shall be chosen at the following elec-

Division of ward into election districts and designation of polling places and election officers.

Description of boundaries and names of election officers to be filed.

Notice of special election.

Boundaries to be published.

Publishing and posting notices.

Manner of conducting elections.

Election of officers therein.

Terms of such officers.

MUNICIPAL CORPORATIONS.

tion thereafter, and the time for which each of said officers is to be elected to serve shall be written or printed under his name upon the ballot to be cast, and any ballot which shall not designate such term of service shall be rejected as to such officers.

Offices heretofore existing vacated and abolished upon election.

622. SEC. 10. That upon the election of such officers the offices held by the members of the heretofore existing board of township committee, town council or other governing body of the territory so annexed or consolidated with such city or town, and the former election officers shall and the same are hereby declared to be forthwith vacated and abolished.

An act concerning elections in municipalities in counties of the first class and fixing the time for holding the same.

P. L. 1892, p. 21.

Passed February 10, 1892.

Elections in municipalities in counties of the first class shall hereafter be held the second Tuesday in April.

623. SEC. 1. That all elections of all officers elected by the voters of any municipality in any county of the first class in this state shall hereafter be held on the second Tuesday in April; where any election for mayor, councilman or other municipal officer of any municipality in any such county is now by law directed to be held on any day other than the second Tuesday in April, such election shall be held on that second Tuesday in April next following the date now fixed by law for the holding of such election; the terms of office of all municipal officers elected in any county of the first class in this state shall commence on the first Monday in the May following the election of such officers.

Terms of officers to commence when.

Duration of such terms.

624. SEC. 2. That each and every officer of every municipality in any county of the first class in this state shall hold his office until the election and qualification of his successor.

Repealer.

625. SEC. 3. That all acts or parts of acts which provide for the election of municipal officers in counties of the first class on any day other than the second Tuesday in April are, so far as they are inconsistent with this act, repealed and that this act shall take effect immediately.

Supplement.

P. L. 1892, p. 250.

Approved March 24, 1892.

Preamble.

WHEREAS, The members of the boards of chosen freeholders in the counties of the first class will hereafter be elected at the elections at which other municipal officers are elected, but are chosen from districts in which there are, in several instances, more than one municipal division, and it being desirable that the other municipal or local officers should be elected on the same day that members of the boards of chosen freeholders are elected in such counties, and that such chosen freeholders should be voted for, in all parts of their respective districts, on the same day; therefore,

Word "municipality" construed.

626. SEC. 1. That the word "municipality," wherever the same occurs in the act to which this is a supplement shall be taken and held to mean and include every political division of said counties of the first class.

An act to enable certain municipal corporations of this state to pass, alter, amend and repeal ordinances.

P. L. 1892, p. 185.

Approved March 23, 1892.

Certain municipalities may pass ordinances upon certain subjects.

627. SEC. 1. That the council or other legislative or governing body of any town or other municipal corporation of this state, incorporated or existing under and by virtue of any special act of incorporation, shall have power to pass, alter, amend and repeal ordinances for the following purposes:

- I. To manage, regulate and control pawnbrokers;
- II. To manage, regulate and control public carriers and expressmen;
- III. To manage, regulate and control public exhibitions of every kind;
- IV. To regulate, prevent and prohibit nuisances of every kind;
- V. To manage, regulate and control plumbers;
- VI. To regulate, control and prescribe the erection of frame houses;

MUNICIPAL CORPORATIONS.

2255

VII. To regulate, control and prohibit tramps and beggars ;

VIII. To regulate the licensing to keep dogs.

628. SEC. 2. That this act shall not affect cities.

Not to affect cities.

629. SEC. 3. That all acts and parts of acts, general, special, local or private, inconsistent herewith, be and the same are hereby repealed.

Repealer.

An act concerning elections in municipalities in certain counties of this state and fixing the time for holding the same.

Approved March 24, 1892.

P. L. 1892, p. 272.

630. SEC. 1. That all elections of all officers elected by the voters of any municipality in any county in this state, wherein the members of the board of chosen freeholders are now or hereafter may be, by law, elected by assembly districts in such counties, shall hereafter be held on the second Tuesday in April; where any election for mayor, councilman or other municipal officers of any municipality in any such county is now by law directed to be held on any day other than the second Tuesday in April such election shall be held on that second Tuesday in April next following the date now fixed by law for the holding of such election; the terms of office of all municipal officers elected in any county in this state subject to the provisions of this act shall commence on the first Monday in the May following the election of such officers.

Certain municipal elections to be held on the second Tuesday in April.

Terms of office to begin, when.

631. SEC. 2. That each and every officer of every municipality in any county in this state subject to the provisions of this act shall hold his office until the election and qualification of his successor.

Duration of such terms.

632. SEC. 3. That the word "municipality," wherever the same occurs in this act, be taken and held to mean and include every political division of the counties subject to the provisions of this act.

Word "municipality" construed.

633. SEC. 4. That all acts or parts of acts which provide for the election of municipal officers in counties in this state subject to the provisions of this act on any day other than the second Tuesday in April, are, so far as they are inconsistent with this act, repealed, and that this act shall take effect immediately.

Repealer.

An act to enable the city council or other governing body of any municipality of this state to accept trusts and purchase property for the purpose of carrying out said trusts.

Approved April 3, 1893.

P. L. 1893, p. 499.

WHEREAS, There are a number of school societies and religious organizations of this state possessed of personal property and valuable real estate in cities of this state, which, owing to the establishment of numerous excellent free schools and public institutions of a like character renders it impossible or impracticable for said societies and organizations to continue the maintenance of such society or organization for the purposes for which it was created, and which said societies or organizations are desirous of conveying to the municipality in which they are located, personal property and valuable real estate, for the purpose of public buildings and also for the purpose of maintaining a free reading-room, library or institute for the benefit of the public; and also to sell to said municipality certain real estate adjoining property which they desire to donate or convey to said municipality for the purposes aforesaid, the income from which adjoining property, so to be sold, shall be used by said municipality for the purpose of carrying out the terms and conditions of said trust; and whereas, the said societies or organizations desire to make such conveyance of property to said municipality in order that there may be maintained a free reading-room, library and museum, and a place for free lectures on philosophical, mechanical and kindred subjects, which tend to elevate the minds and morals of the people and be of special benefit to the community; and whereas, such purpose can only be accomplished by a trust which would be most likely to exist in perpetuity, and municipal corporations are the only form of corporations in this state which have any assurance of perpetuity, and therefore such objects can best be attained by the intervention of some municipality; therefore,

Preamble.

Governing body of municipality may accept certain trusts respecting free libraries, &c.

634. SEC. 1. That it shall and may be lawful for the city council or other governing body of any municipality of this state to accept any trusts for the purposes aforesaid, and to appoint any number of trustees designated by the terms and under the conditions of the deed or instrument creating the trust and conveying the real or personal estate, or both, to said municipality; and it shall also be lawful for the said city council or other governing body of said municipality to purchase lands belonging to said society or organization, adjoining the lands conveyed to said municipality for the purposes aforesaid, and to issue bonds to an amount not exceeding ten thousand dollars in payment for said lands so purchased; *provided*, that the interest accruing upon said bonds shall be used and devoted for the purpose of maintaining said trust and carrying out the purposes thereof.

Municipality not to be liable for misappropriation of funds.

635. SEC. 2. That nothing herein contained shall be construed to make any municipality liable for the misappropriation of the funds created by said trust, nor to make good any diminution thereof resulting from the wrongful acts of its agents or any person or persons appointed in conformity with the terms and conditions of the deed or instrument creating said trust; *provided, however*, should any agent or officer of said municipality be under bonds thereto and upon default, the municipality should recover from the sureties on said bond a sum sufficient to pay or make good the amount of misappropriation of said funds of said trust, then said municipality shall make good the same out of the amount so received; *and provided further*, that any misappropriation of the funds aforesaid shall in no wise affect the trust aforesaid.

Repealer.

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

An act to authorize the common council or other governing body of certain municipalities in this state to change the time of holding the annual election therein.

P. L. 1895, p. 234.

Approved March 14, 1895.

Municipal election in certain cases may be changed to first Monday in May.

637. SEC. 1. That wherever in any incorporated town or city in this state the time for holding the annual election therein has been fixed by its charter for the second Monday in May, the common council or other governing body of said town or city may by ordinance change the day of holding said election to the first Monday in May; and after said change has been made by ordinance, as aforesaid, the said annual election shall be held on the first Monday in May in each and every year thereafter.

An act to provide for the annexation of additional territory to cities of the third class and incorporated towns.

P. L. 1895, p. 417.

Approved March 21, 1895.

Proceedings for annexation of territory to third-class cities and towns.

638. SEC. 1. That one or more persons living and owning lands adjacent to any city of the third class or incorporated town, may have their said lands annexed to and become part of such city or town by presenting a written request to the mayor and board of aldermen or other governing body of such city or incorporated town, specifically setting forth the boundaries of the additional territory so sought to be annexed, signed by persons owning at least sixty per centum of the assessed value of the lands therein described, as shown by the assessor's duplicate for the preceding year; which request shall be duly verified and shall have attached thereto the oath of the assessor of the township or townships in which said lands are located, or of some other person having access to such assessor's books, setting forth the assessed value of the real estate contained within such boundaries for the preceding year, and the amount of real estate assessed to the persons whose names are signed to such request; and the mayor and board of aldermen or other governing body of such city or incorporated town by a two-thirds vote may in their discretion by ordinance annex the territory specifically described in said

MUNICIPAL CORPORATIONS.

2257

request to such city or town; and in case such city or incorporated town is divided into wards shall also in such ordinance designate the ward or wards to which said territory shall become a part, but in all cases the annexed territory shall become part of the ward or wards to which it is contiguous; *provided, however,* that the boundaries of such city or incorporated town shall not be extended so as to include a portion of any county other than that in which such city or town is located.

Proviso.

639. SEC. 2. That after the passage of such ordinance, the territory set forth in said request shall become a part of such city or incorporated town and subject to all the laws and ordinances regulating and governing the same.

When annexation shall take effect.

640. SEC. 3. That in case such city or incorporated town is divided into wards, and has a map defining the lines and showing the extent and boundaries of such wards filed in the office of the clerk of such city or town, the mayor or presiding officer shall forthwith cause the territory so annexed as aforesaid to be plotted upon said map, showing the extent and boundaries of the ward or wards to which said annexed territory has by such ordinance been added.

When annexed territory shall be plotted on city map.

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

Repealer.

An act to empower boards of aldermen, councilmen or other governing bodies of cities, towns or boroughs of this state to give notice of intention to pass ordinances for any public improvement by publication.

Approved March 22, 1895.

P. L. 1895, p. 559.

642. SEC. 1. That whenever by the charter, special public law or general public law under the provisions of which any city, town or borough of this state shall intend to cause any public improvement to be made no specific direction is given of the manner in which notice shall be given of the intention of the board of aldermen, councilmen or other governing body of such city, town or borough to pass and adopt an ordinance or ordinances to cause such public improvement to be made, it shall be lawful for the said board of aldermen, councilmen or other governing body of any city, town or borough of this state to cause notice of its intention to pass such ordinance or ordinances to be given by publication for two weeks before the introduction or first reading of such ordinance or ordinances in one or more newspapers published and circulating in such city, town or borough; or if no newspaper be published in said city, town or borough, then in a newspaper published in the county wherein such city, town or borough is situate, and circulating in said city, town or borough; *provided,* that if such public improvement contemplates the taking and appropriating of any land and real estate owned by a person or persons not residents in said city, town or borough, a copy of said notice shall be served on said non-resident owner personally or mailed to his or her post-office address if known, at least ten days before the introduction of said ordinance.

Manner of giving notice of intention to adopt ordinance for public improvement.

Proviso.

643. SEC. 2. That any such notice of intention so published as aforesaid shall be a good and sufficient notice of the intention of said board of aldermen, councilmen or other governing body to cause said public improvement to be made.

What publication of such notice shall be sufficient.

An act to regulate the location of pest-houses, crematories and other objectionable structures.

Passed June 13, 1895.

P. L. 1895, p. 822.

644. SEC. 1. That it shall not be lawful for any person or corporation, or for any municipal corporation, to locate, erect, build or establish or maintain, either temporarily or permanently, any pest-house or hospital or building for the treatment of contagious diseases, or for the reception of persons suffering from any contagious or infectious disease, or any crema-

Unlawful to locate, erect, &c., pest-house, crematory, &c., without consent of municipalities.

tory or building or receptacle for the collection or treatment or disposal of garbage, house waste or other refuse matter, within any city, town, township, borough or other municipal corporation of this state, without first obtaining the consent thereto of the governing body of such city, town, township, borough or other municipal corporation within the territorial limits of which it is proposed to locate or maintain any such structure; which consent may be given by resolution and upon such terms and conditions as may be embraced in such resolution.

Repealer.

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

Names.

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| <p>1. Amended by section 7.</p> <p>2. Court, on being satisfied there is no reasonable objection, may make order.</p> <p>3. Within ten days after order granted, copy to be published in paper printed in county, &c.</p> <p>4. When act complied with, applicant to be known by name authorized in order.</p> | <p>5. Suits or legal proceedings not to abate—may be amended in respect to name.</p> <p>6. When act to take effect.</p> <p>7. Application to court for change of name.</p> |
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An act to authorize persons to change their names.

P. L. 1876, p. 21.

Approved February 24, 1876.

Court, on being satisfied there is no objection, may make order.

1. [Amended by Sec. 7, *post.*]

2. That if the court to which such application shall be made, shall be satisfied by such petition, so verified, or by affidavits presented, that there is no reasonable objection that such person should assume another name, such court shall make an order authorizing such applicant to assume such other name, from and after some time, not less than thirty days, to be specified in such order.

Within ten days after granting order, copy to be published in paper printed in county, &c.

3. That within ten days after granting such order, such applicant shall cause a copy thereof to be published in a public newspaper printed in the county in which he shall reside at the time of making such application; within twenty days from the granting of such order such applicant shall cause such petition, affidavit or affidavits, order, and an affidavit of the publication of such order to be filed and recorded in the county clerk's office of the county in which such applicant shall reside at the time of making such application, and within the same time such applicant shall cause a certified copy of such order to be filed with the secretary of state.

When act complied with, applicant to be known by name authorized in order.

4. That when the requirements of this act shall be complied with, the applicant shall, from and after the day specified for that purpose in such order, be known by the name which by such order he shall be authorized to assume, and by no other.

Suits or legal proceedings not to abate—may be amended in respect to name.

5. That if any suit or legal proceeding shall be commenced by his former name, against any person whose name shall have been changed pursuant to this act, such suit or proceeding shall not be abated, nor any relief or recovery sought thereby, be prevented by such misnomer, but the plaintiff or party instituting such suit or proceeding may amend in respect to the name of the person against whom it shall be commenced, at any time and without costs.

When act to take effect.

6. That this act shall take effect on the first day of April, eighteen hundred and seventy-six.

Supplement.

Approved May 15, 1894.

P. L. 1894, p. 312.

7. SEC. 1. That section one of the act to which this is a supplement be amended so as to read as follows :

Application may be made to court for change of name.

[That any person residing in any county in this state may apply to the circuit court or the inferior court of common pleas of such county for an order to authorize such applicant to assume another name; if, said appli-