

Towns.

I. GOVERNMENT.

1. Amended by sections 84 and 90.
2. Amended by section 91.
3. Amended by section 92.
4. Amended by section 93.
5. Amended by section 85.
6. Amended by sections 86 and 94.
7. Governing body of town may fill offices in the town, &c., of which it is the successor.
8. Town vested with rights and property of town, &c., of which it is the successor.
9. Town and ward officers.
10. How officers elected.
11. Proceedings for annual town election, &c.
12. What persons to be declared elected.
13. Board of town canvassers.
14. Board of town canvassers to make written statement and determination, &c.
15. How office filled when two or more persons receive equal number of votes.
16. Amended by section 95.
17. What persons eligible to office.
18. Lawful for council to fill vacancies occurring by death, &c.
19. May fill vacancy in office filled by appointment.
20. Persons elected or appointed to take oath.
21. Officers to give bond.
22. When official terms to commence.
23. Officer to deliver books, &c., to successor.
24. No officer to hold other office under this act.
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28. Town collector, term of office and duties.
29. Town treasurer, term of office and duties, &c.
30. Treasurer to receive and disburse moneys raised for school purposes.
31. Treasurer to furnish statement of moneys received and expended.
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35. Proceedings when process is issued by recorder, &c.
36. Councilman-at-large, assessor and overseer of the poor, term of office and duties.
37. Town attorney, term of office and duties.
38. Town surveyors, how appointed, &c.
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42. Amended by section 96.
43. Council to cause statement of finances to be printed annually.
44. Majority of council to be a quorum. Meetings, &c.
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47. Council may pass ordinances for certain purposes.
48. To regulate use of streets by street railway companies.
49. When boundary line of town is a street or road, to regulate use of same.
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51. Empowered to pass other ordinances.
52. Empowered to pass ordinances for raising money by taxation for certain purposes.
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54. Power to provide for supply of water.
55. Power to designate official newspaper.
56. May borrow money in anticipation of revenues.
57. May direct special election to fill vacancy.
58. May require owners to keep flagging, &c., in good repair.
59. To appoint commissioners of assessment.
60. Council empowered to do certain things.
61. Amended by section 102.
62. How award paid for damages, &c.
63. Proceedings where persons are dissatisfied with determination.
64. Amended by section 103.
65. Amended by section 104.
66. Council may appoint inspector over sewer or street improvement.
67. Before work accepted, council to publish notice of meeting to hear objections.
68. Proceedings when necessary to take or use private property.
69. Town and adjoining municipality may contract for payment of sum for right to connect sewers.
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71. Amended by section 89.
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74. Fiscal year, when to begin.
75. Moneys from arrears of taxes, &c., how apportioned.
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77. Moneys from licenses, &c., paid into incidental fund.
78. Rate of interest on taxes and assessments.
79. Taxes and assessments to be liens on lands and real estate. Proceedings to sell lands when not paid.
80. Dog tax to be levied.
81. When assessor to complete assessment.
82. Amended by section 97.
83. Former laws applicable to town formed under this act.
84. Amended by section 90.
85. Council, &c., to divide town into three wards, &c.
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87. Salaries of certain officers fixed by ordinance of council, &c.
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90. Inhabitants of town, borough or township may be incorporated into a town.
91. Governing body of town, &c., upon petition may pass ordinance for holding election.
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103. Proceedings to grade, macadamize, &c., streets.
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105. Council may issue improvement certificates.
106. Governing body may employ superintendents of roads and sewers and prescribe their duties.
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112. Conviction may be reviewed by appeal to courts of common pleas.
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116. Assessor and collector, how appointed.

117. Duties of assessor and collector of taxes.
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119. Commissioners may require owners to fix sidewalks, curbings and gutters.
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121. May order election to fill vacancy in their body.
122. Commissioners of assessments, appointment, term of office and duties.
123. Commissioners to lay out streets, sewers, &c.
124. Amended by section 138.
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126. Proceedings for grading streets, &c.
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128. Inspector, appointment and compensation.
129. Before work accepted, meeting to hear objections to be held.
130. Proceedings in order to take private property.
131. Improvement certificates to be issued.
132. Amended by section 139.
133. When *certiorari* or injunction to set aside ordinance shall not be allowed.
134. License moneys, &c., to be paid into incidental fund.
135. Taxes and assessments a lien on property. Proceedings to sell land.
136. When assessment to be completed.
137. Former acts relating to incorporated towns made applicable to towns embraced under this act.
138. Proceedings to open streets or sections thereof, &c.
139. Cost of public improvement shall be assessed on land benefited, &c. Proceedings to hear objections, &c.
140. Repealer.
141. Commitments may be to town lock-up.
142. Proceedings relative to mortgaged lands.
143. Payment of damages shall extinguish dower estate.
144. Collector shall make return of unpaid assessments.
145. County clerk shall record returns.
146. If return is not made, lien shall close as against purchaser or mortgagee.
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148. Past-due taxes may be collected under this act.
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159. Town shall succeed to the rights, property, &c., of the municipality of which it is the successor.
160. Town and ward officers specified.
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172. Certain officers shall give bonds.
173. Commencement of official terms.
174. Retiring officers shall surrender books, records, &c.
175. Holding of more than one office under this act prohibited.
176. Council shall fix salaries and compensation.
177. Council shall prescribe duties of officers and may remove them for cause.
178. Term and duties of town clerk.
179. Term and duties of collector.
180. Term and duties of treasurer.
181. Treasurer shall receive and disburse school moneys.
182. Treasurer shall furnish monthly statement and annual report.
183. Term and duties of recorder.
184. Councilmen and policemen shall have power to make arrests on witnessing any violation of ordinance, &c.
185. Proceedings in cases of appeal from judgment for violation of ordinances.
186. Officers who may serve process and how return shall be made.
187. Terms and duties of other officers.
188. Town attorney, term and duties.
189. Town surveyors, how appointed, &c.
190. Poundkeepers, how appointed, &c.
191. Commissioners of appeals, term and duties.
192. Chief of fire department, election and term of office.
193. How council shall be organized.
194. Council shall publish annual statement.
195. What shall constitute a quorum. Meetings.
196. Contracts in which councilmen shall be interested, to be void. Not to become surety for any officer.
197. Proceedings for passing ordinances.
198. Purposes for which ordinances may be passed.
199. Council may regulate street railways.
200. May regulate use of street which forms boundary line with adjoining municipality.
201. May establish and regulate police force.
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203. Power to pass certain other ordinances.
204. May provide for lighting streets, &c.
205. May provide for a water-supply.
206. May designate an official newspaper.
207. May borrow money in anticipation of revenues.
208. May order special elections to fill vacancies.
209. May require owners to keep sidewalks, &c., in repair.
210. Commissioners of assessments, term of office, duties, &c.
211. Council shall have power to lay out and open streets, provide sewerage, &c.
212. Proceedings in cases of laying out and improving streets, &c.
213. Awards may be offset by benefits.
214. Proceedings in cases of dissatisfaction with determination of council, &c.
215. Proceedings to cause streets to be improved, &c.
216. Proceedings to cause sewers to be constructed, &c.
217. Inspector may be appointed.
218. Before work accepted, meeting shall be held to consider objections.
219. Council may condemn private property for construction of sewers.
220. May contract for connection with sewers of adjoining municipality.
221. May issue improvement certificates, &c.
222. Cost of improvements shall be ascertained and assessed.
223. No injunction or *certiorari* shall be allowed after contract has been awarded.
224. Bonds may be issued, &c.
225. Fiscal year, when to begin.
226. Redemption moneys, how appropriated.
227. Principal and interest of bonded debt, how raised.
228. License money shall be paid into incidental fund.
229. Interest on unpaid taxes, &c.
230. Taxes shall remain a lien. Proceedings when land is sold.
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232. Time when assessments shall be completed.
233. Property of school districts, &c., shall become property of newly-incorporated town. Bonds may be issued.
234. Existing laws made applicable.
235. Unfinished street improvements shall be completed.
236. Governments under former acts hereby ratified and confirmed.
237. Town governments heretofore established, recognized as legal, &c.
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II. SEWERS AND DRAINS.

239. Towns may agree with owners of lands for construction of sewers, drains, &c.
240. Owners of lands may prepare maps, &c., and submit same to town authorities.

- 241. Town council may prepare maps, &c., and submit same to owners of lands.
- 242. Justice of supreme court to appoint commissioners. Commissioners to estimate cost.
- 243. Amended by section 262.
- 244. Amended by section 263.
- 245. Main outlet sewers may be connected with other sewers.
- 246. Bonds may be issued.
- 247. Costs assessed by commissioners on lands benefited.
- 248. Application for appointment of commissioners of assessment to be advertised. How appointed.
- 249. Report of assessment to be made. Subsequent proceedings to confirm or revise.
- 250. Costs and expenses and compensation of commissioners, how ascertained and fixed.
- 251. Vacancies, how filled.
- 252. Amended by section 255.
- 253. Moneys received for assessments, how applied.
- 254. Main sewer to be kept in repair at expense of town and landowners.
- 254a. Act to take effect immediately.
- 255. Assessments under act to remain a lien until paid, &c.
- 256. Owners may use sewer upon payment of sum agreed upon. Proceedings on failure to agree.
- 257. Authorities empowered to prepare plans, &c., showing location of additional main lateral sewers.
- 258. Proceedings if landowners dissent to such plans, &c.
- 259. Authorities empowered to issue bonds.
- 260. Costs and expenses of main lateral sewers to be assessed upon lands benefited.
- 261. Repealer.
- 262. Proceedings after filing report, map, &c.
- 263. Contracts to be advertised.
- 264. Repealer.
- 265. Lawful for common council to cause sewers or drains to be constructed.
- 266. Proceedings when petition presented asking for construction of sewer, &c.
- 267. When feasible to build sewer upon private property, lawful for town to acquire land. Proceedings.
- 268. Amount which may be expended in any one year.
- 269. Council may borrow money to meet expenses of improvement.
- 270. Lawful for town to issue bonds to provide for cost of improvement.
- 271. Common council authorized to pass ordinances for government and control of sewers and drains.
- 272. When act to take effect.
- 273. Towns authorized to construct sewers, drains, &c.
- 274. Proceedings upon petition to common council asking for construction of sewer, &c.
- 275. Costs, damages and expenses to be ascertained and assessed on lands benefited.
- 276. Expenditures limited.
- 277. In order to meet expenses, common council may borrow money upon note, &c.
- 278. Towns authorized to issue bonds for cost of such improvement.
- 279. Act, when to become operative.
- 280. Towns may contract with any city for water-supply.
- 281. May lay pipes, &c.
- 282. May issue bonds. Proceeds, how applied.
- 283. May operate and keep works in repair, &c.
- 284. Repealer.
- 285. May take and convey water from sources for domestic and other purposes. Appointment of water commissioners.
- 286. Amended by section 313.
- 287. May construct and maintain reservoirs, &c.
- 288. Proceedings if commissioners and owners of lands cannot agree.
- 289. Proceedings in case of appeal.
- 290. May enter upon lands, &c.
- 291. Work exceeding \$200 to be advertised for and done by contract.
- 292. Commissioners to furnish water, prescribe rules, &c.
- 293. Water rents to be a lien.
- 294. Persons may be employed to manage works.
- 295. Commissioners to erect hydrants in streets.
- 296. Penalty for injury to works.
- 297. Penalty for polluting water in reservoir.
- 298. Bonds may be issued. Proceeds, how applied.
- 299. Bonds not liable to town tax.
- 300. Moneys received from water rents, how applied.
- 301. Proceedings in case receipts are less than expenditures.
- 302. May assess sum to cover losses and contingencies.
- 303. Amended by section 308.
- 304. Act to be submitted to voters for acceptance or rejection.
- 305. Unlawful to sell or dispose of rights, privileges, &c., to any person, town, &c.
- 306. Restriction of act.
- 307. Act extended to boroughs, camp meeting associations and other municipal commissions.
- 308. Commissioners to keep funds in bank.
- 309. Amended by section 323.
- 310. Commissioners to issue bonds for additional sum.
- 311. Water commissioners may purchase streams of water, wells, &c.
- 312. Commissioners may extend water pipes. Water rents, how applied.
- 313. Commissioners to take oath and give bond.
- 314. Governing body may provide by ordinance for control and management of sewer system.
- 315. Commissioners authorized to prescribe rules and to have power to employ laborers, &c.
- 316. Rents draw interest from time due until paid, and are lien on premises.
- 317. Estimate to be made of cost of managing sewer system annually.
- 318. In case of deficiency, three per centum to be added and assessed upon property.
- 319. Funds deposited in local banks, &c.
- 320. Receipts and disbursements to be kept open to inspection, &c.
- 321. Additional compensation of water commissioners.
- 322. Repealer.
- 323. Proceedings when certain sum is insufficient to construct or complete water works.
- 324. Time for holding elections in wards of certain towns.
- 325. Boards of commissioners may light streets, purchase engines, &c.
- 326. May contract for supply of light and water.
- 327. Town authorities having charge of sinking fund may purchase and cancel bonds before maturity, &c.
- 328. Governing body of incorporated towns may pass ordinances for certain purposes.
- 329. Town treasurer, appointment of, &c.
- 330. Duties of town treasurer.
- 331. Removal of officers.
- 332. Duties of collector or receiver of taxes.
- 333. For what purposes money may be raised.
- 334. Act not to apply to incorporated city.
- 335. May borrow in anticipation of appropriated revenues.
- 336. Towns whose public buildings have been destroyed by fire may issue bonds.
- 337. Form of bonds.
- 338. Principal and interest to be raised by tax.
- 339. Repealer.
- 340. Width of streets or sections of streets, how changed.
- 341. Repealer.
- 342. Amended by section 343.
- 343. Boards of commissioners empowered to pass ordinances for certain purposes.
- 344. To whom appeal shall lie and be determined.
- 345. Repealer.
- 346. Governing body may alter map or plan establishing boundaries of streets and avenues.
- 347. Proceedings for effecting change in boundaries.
- 348. Costs, how paid.
- 349. Repealer.
- 350. Incorporated towns to have minutes of official boards published.
- 351. Statements shall be published in a daily newspaper.
- 352. Time for publication limited.
- 353. Governing body may fix recorder's salary.
- 354. Repealer.

I. Government.

An act providing for the formation and government of towns.

P. L. 1888, p. 483.

Approved April 24, 1888.

1. [Amended by Secs. 84 and 90, *post.*]
2. [Amended by Sec. 91, *post.*]
3. [Amended by Sec. 92, *post.*]
4. [Amended by Sec. 93, *post.*]
5. [Amended by Sec. 85, *post.*]
6. [Amended by Secs. 86 and 94, *post.*]

Governing body of town may fill offices in the town, &c., of which it is the successor.
Term of office of appointees.

7. That the council or governing body of the town may fill by appointment all such offices herein provided for which did not exist in the town, borough or township of which it is the successor; and all such appointments to elective offices shall hold only until the first day of May next succeeding the first town election held under the provisions of this act, and all other such appointments shall hold only until the first day of June next thereafter.

Town vested with rights and property of town, &c., of which it is the successor.

8. That any town which may be formed or incorporated under the provisions of this act shall take, hold, possess and enjoy and become absolutely vested with all the rights and property of the town, borough or township of which it is the successor, and shall be responsible for and liable to all contracts, debts and obligations of such town, borough or township.

Town and ward officers.

9. That the town and ward officers of the town shall be a town council, consisting of two councilmen from each ward and one councilman-at-large, a town clerk, a town collector, a town treasurer, a town attorney, an assessor, a recorder, a board of commissioners of appeal, consisting of one member from each ward, an overseer of the poor, one or more town surveyors, one or more poundkeepers, a board of education, consisting of three members from each ward, three commissioners of assessment, a chief of police and a chief engineer of the fire department, three constables in each ward and such number of justices of the peace as the town may be entitled to under the constitution and laws of this state, and for the purpose of electing justices of the peace, each town shall be considered a township, and in counties in which chosen freeholders are elected by townships and wards each ward of the town shall elect one chosen freeholder.

Justices of the peace.

Chosen freeholders.

How officers elected.

10. That the councilmen from each ward and the councilman-at-large, town clerk, town collector, assessor, constables and members of the board of education shall be elected at an annual town election; the town treasurer, town attorney, recorder, commissioners of appeal, overseer of the poor, chief of police, town surveyors and the commissioners of assessment and poundkeepers shall be appointed by the council in the manner and for the terms hereinafter provided; the chief of the fire department shall be elected in the manner and for the term hereinafter provided by the active members of the fire department.

Proceedings for annual town election, &c.

11. That the annual town election shall be held on the second Tuesday in April in each year, between the hours of seven o'clock in the morning and seven o'clock in the afternoon, at the place or places in each ward designated by the council, in the same manner and under the same regulations in all things as is prescribed by law for election of members of the general assembly of this state; notice of the time and place or places of such election and of the officers to be chosen shall be given by the town clerk at least two weeks before the day of election, by publication in the official newspapers of the town, and if there be none, by publication in at least one newspaper published in the county in which the town is situated and generally circulating in the town; no person shall be permitted to vote at any such election unless he is an actual resident of the election district in which he offers his vote; immediately after the polls shall be closed at any such election the election officers of each election district shall count the votes given for the several candidates, and certify under their hands the number given for each, and publicly announce the same; and within

Statement of the result to be certified and delivered.

twenty-four hours thereafter they shall immediately deliver one such statement to the judge or inspector, who shall be delegated to attend the meeting of the board of town canvassers, and one to the town clerk and one to the county clerk, to be by them filed in their respective offices.

12. That the person or persons receiving the greatest number of votes of those given in the town for any town office and of those given in each ward respectively, for any office in or from the ward, shall be declared to be elected.

What persons to be declared elected.

13. That the board of town canvassers shall consist of one judge or inspector of election from each election district in the town, who shall be appointed for that purpose by the other election officers (excluding the clerk) of such district; a majority of the board shall constitute a quorum, and the town clerk shall be clerk of said board; the board shall meet on the Friday next after such election, at three o'clock in the afternoon, at the town hall, and shall choose one of their number to be the chairman thereof; if the town clerk shall fail to attend, the board may appoint one of their own number to be clerk thereof; thereupon the members of the board shall produce the statements which shall have been delivered to them as aforesaid, and lay the same before the board, and from such statement the board shall proceed to ascertain the votes given at such election for the several officers voted for thereat; *provided, however*, that if for any reason, any member of such board shall fail to produce such statement, that then, on the request of the board, the town clerk shall produce and lay before the board the statement filed with him, and the same may be used with the like effect as if it had been produced by the member so failing to deliver his statement.

Board of town canvassers.

When to meet, &c.

Proviso.

14. That the said board of canvassers shall make a written statement of the number of votes given for the several officers to be elected for said town and the several wards thereof, the names of the persons for whom such votes were given and the number of votes given for each; that upon such statement said board shall proceed to determine and declare what person or persons have received the greatest number of votes for each of the offices mentioned in such statement; the statement and final declarations of the board shall be certified to by the presiding officer and clerk, and shall be filed with the town clerk and be by him recorded in a book to be kept for that purpose, and within two days after such canvass of the votes, the town clerk shall deliver to every person elected to any town or ward office a certificate thereof, under the seal of the town.

Board of town canvassers to make written statement and determination.

Certified and filed.

Town clerk to deliver certificate to persons elected.

15. That if at any such election there shall be a failure to fill any office, except that of councilman or member of the board of education, by reason of two or more persons having received an equal number of votes therefor, the town council then in office shall by ballot elect one of the persons so receiving an equal number of votes to fill such office until the next town election, when the unexpired portion of the term (if any) shall be filled by the electors of the town; and if there shall be a failure for like cause to fill the office of councilman or member of the board of education, a new election for such officer or officers shall be immediately ordered by the town council.

How office filled when two or more persons receive equal number of votes.

16. [Amended by Sec. 95, *post.*]

17. That no person shall be eligible to any office under this act unless he shall have resided in the town for the period of at least one year, and no person shall be eligible to any ward office unless he shall be an actual resident of the ward; and no person shall be eligible to any office unless he is a citizen of the United States; *provided, however*, that the town attorney and the town surveyors need not be residents of the town; and when any person except town attorney and town surveyors, elected or appointed to any town or ward office shall remove from the town or ward his office shall thereby become vacant.

What persons eligible to office.

Proviso.

18. That in case a vacancy occurs by reason of the death, resignation, inability, disqualification, removal or refusal to serve of or by any town or ward officer, elected as aforesaid, it shall be lawful for the town council to fill such vacancy by the appointment of a suitable and qualified elector

Lawful for council to fill vacancies occurring by death, &c.

- to hold until his successor shall have been duly elected and qualified, and the unexpired portion of the term (if any remain) shall be filled at the town election to be held next after such appointment; *provided, however,* that in case any such vacancy shall occur in the board of education, said board of education may fill such vacancy by appointment until the next town election, when the vacancy shall be filled by the electors of the town; *provided,* that if at any town election there shall be a vacancy in any office to be filled and at the same time an election for the full term of such office, the term for which each person shall be voted for shall be designated on each ballot cast therefor.
- 19.** That in case any such vacancy as aforesaid shall occur in any office which is filled by appointment or election by the town council, the said town council shall have power to fill such vacancy by the appointment of a suitable person to hold for the unexpired portion of the term of such office.
- 20.** That every person elected or appointed under this act to any office, shall, within ten days after such election or appointment, take and subscribe before an officer qualified to administer oaths, an oath or affirmation, faithfully and impartially to execute the duties of his office according to the best of his ability and understanding, which oath or affirmation shall be filed in the town clerk's office, and if any person so elected or appointed shall fail so to qualify, then his office shall be deemed vacant, and may be filled in the manner hereinbefore provided.
- 21.** That the town clerk, town treasurer, town collector and such other officers as the town council may require, before they enter on the duties of their office and within such time as the board of council may by ordinance prescribe, shall give bonds to the town in its corporate name in such sums and with such sureties as the board of council shall require and approve, for the faithful performance of their duties, which bonds, when so given, shall bind the obligors therein named until the successors to the officers giving the same shall be actually inducted into office, and if any officer shall fail or neglect to give bonds in the sum or with the sureties or within the time required by such ordinance, the council may declare such office vacant, and such vacancy shall be filled in the manner hereinbefore provided.
- 22.** That the official terms of the several officers who shall be elected under this act shall commence on the first day of May next succeeding their election; and the term of any officer who shall be appointed by virtue of this act shall commence on the first day of June next succeeding his appointment, except in cases otherwise provided for in this act, and every officer shall hold his office during his official term and until his successor shall have been duly elected or appointed and shall have duly qualified.
- 23.** That it shall be the duty of every officer in said town within ten days after the expiration of his term of office or his removal therefrom, to deliver to his successor in office, or to such person as the town council may appoint, all books, records, papers, vouchers and property of every kind in his possession or under his control, belonging to said town or appertaining to such office.
- 24.** That no officer of the town, elected or appointed under this act, shall hold any other office of profit or trust under this act, and any such officer who shall accept any other office under this act shall be deemed to thereby vacate the office to which he was first elected or appointed.
- 25.** [Amended by Sec. 87, *post.*]
- 26.** That all the officers of the town shall be governed by such general ordinances as the town council may from time to time adopt, not inconsistent with the provisions of this act and the laws of this state, and every officer may be removed from office for cause by a two-thirds vote of all the members of the council, but no such removal shall take place until the person sought to be removed shall have had an opportunity of being heard in his own defense; but the provisions of this section shall not apply to any member or officer of the board of education.
- Proviso.**
- Proviso.**
- May fill vacancy in office filled by appointment.**
- Persons elected or appointed to take oath.**
- Officers to give bond.**
- When official terms to commence.**
- Term of office.**
- Officer to deliver books, &c., to successor.**
- No officer to hold other office under this act.**
- Officers, how governed and removed.**

27. That the town clerk shall hold office for the term of two years, and shall, in addition to the duties required of him by this act or any other law of this state, have charge of all the records, books and documents of the town, except when the town council shall otherwise direct; he shall keep a record of the proceedings of the council, he shall engross all ordinances in a book to be provided for that purpose, which book shall be deemed a public record of such ordinances, and each ordinance shall be signed in said book by the chairman of the council and said clerk; copies of all papers duly filed in the office of the town clerk and transcripts thereof and of the records and proceedings of the board of council and copies of the ordinances of said town, certified by the said clerk under the corporate seal of the town, shall be evidence in all courts and places; the town clerk shall pay over to the town treasurer, without delay, all moneys received by or paid to him for the use of the town; his office shall be at the town hall, and he shall keep the same open for the transaction of public business during such hours as the council shall by ordinance prescribe; it shall be lawful for him to charge and receive for his own use, at the rate of ten cents per folio, for copies of all official papers and records and for the return to any writ of certiorari made by him.

Town clerk,
term of office
and duties.

28. That the town collector shall hold office for the term of two years, and it shall be his duty to receive and collect all moneys due to the town, whether for taxes, assessments, arrears of taxes or otherwise; the town council shall provide him with an office at the town hall, which he shall attend at such times as shall be designated by the council by ordinance; he shall enter, in suitable books to be provided for that purpose by the council, the sums received by him for any purpose, and he shall specify in such entry the names of the persons by whom or on whose account the payments are made, the dates of payment and the purpose for which payment is made, and if any part of any payment is for interest or penalties, the amount thereof shall be separately stated; he shall at least once each week pay over all moneys collected by him for the town to the town treasurer and shall take his receipt therefor; he shall furnish the council at least once in each week, and oftener, if required, a statement of all moneys received and collected by him since his last preceding report was made, and he shall perform all such other duties appertaining to the said office as the council shall by ordinance prescribe; he shall make a full report annually on the first day of April to the council of all moneys received and disbursed by him, and he shall, whenever required, lay before the council for examination and audit all books, papers and vouchers appertaining to his office.

Town collector,
term of office
and duties.

29. That the town treasurer shall hold office for two years; he shall receive, safely keep and disburse, under the direction of the council, all moneys belonging to or under the control of the town; he shall keep an accurate account of all receipts and payments in such manner as the council shall direct; no money shall be paid out of the treasury except on warrant signed by the chairman of the council and attested by the town clerk, excepting payments of state and county taxes, which the said treasurer is hereby required to make annually out of the first moneys received by him from the town collector and moneys paid into the town treasury for the redemption of property sold for taxes and assessments; and no warrant shall be drawn on the treasurer except in pursuance of an order or resolution of the council passed at a stated meeting and entered in their minutes; all such warrants shall be numbered and made payable to the order of the person entitled to receive the same, and shall specify for what purpose the amount therein mentioned is directed to be paid and the appropriation against which it is to be charged; it shall be the duty of the clerk before he delivers any warrant so drawn to enter into the margin of a book to be called "warrant-book," opposite to said warrant, the number, date, amount of the same, the appropriation to which it is charged, the date of the resolution or order authorizing it to be drawn, the purpose for which ordered and the name of the person or persons to whose order it is made payable, and to take his or their receipt in said

Town treasurer,
term of office,
and duties, &c.

Proviso.

book at the end of said marginal entry for said warrant ; *provided, however,* that nothing in this section contained shall apply to the disbursement and payment of moneys raised or received for public school purposes.

Treasurer to receive and disburse moneys raised for school purposes.

30. That the town treasurer shall receive, safely keep and disburse all moneys raised and received for public school purposes ; he shall keep separate accounts thereof and pay the same out only on warrant signed by the chairman and clerk of the board of education, and no warrant for any such purpose shall be drawn on the treasurer except in pursuance of an order or resolution passed at a stated meeting and entered in their minutes, and the provisions of the last preceding section of this act relative to warrants on the treasurer by the town council shall apply to the warrants of the board of education ; and the said treasurer shall do and perform all acts and duties enjoined upon township collectors by the school laws of the state.

Treasurer to furnish statement of moneys received and expended.

31. That the treasurer, at least once every month, and oftener if required, shall furnish the council with a statement of all moneys received and expended by him (including school moneys) since his last report, and he shall annually, on the first day of April, make to the council a full report of all his receipts and expenditures, and he shall, whenever required, lay before the council, for examination and audit, all books, papers and vouchers appertaining to his office.

Annual report.

Recorder, term of office, jurisdiction and powers.

32. That the recorder shall hold office for two years, and shall have jurisdiction and is hereby empowered, on oath, affirmation or affidavit made according to law, that any person or persons has or have been guilty of a violation of any of the ordinances of the town, to issue process either in the nature of a summons or warrant as to him may seem most advisable, against the person or persons so violating such ordinance, which process shall, when of the nature of a warrant, be returnable forthwith, and when in the nature of a summons be returnable in not less than three nor more than five days ; that such process shall state what ordinance the defendant or defendants named therein has or have violated, and in what manner the same has been violated, and then, on return of such process, or at the time to which the recorder shall have adjourned the same, the said recorder shall proceed to hear testimony and to determine and give judgment in the matter without the filing of any pleadings, and the recorder shall, if judgment be rendered for the plaintiffs, forthwith issue execution against the goods and chattels and against the body of the defendant or defendants ; and the said recorder shall be further empowered to inflict fines not exceeding the sum of twenty dollars on such persons as shall be convicted before him of vagrancy, disorderly conduct, breach of the peace, or, in his discretion, to order such persons to be committed to the county jail or workhouse for any period not exceeding thirty days ; *provided,* that in all cases when the fine or penalty shall exceed ten dollars or where the punishment shall be imprisonment, there may be a trial by jury, to be conducted as in cases now triable in courts for the trial of small causes ; the recorder shall also have power to cause any person or persons who shall be found guilty of a violation of the ordinances of the town, and who may refuse or neglect to pay any penalty imposed, to be committed to the county jail for any period not exceeding thirty days ; and the recorder shall be present at the station-house or other place provided for him by the town council, at such hours every day as the council shall designate ; and the recorder shall have the same powers in criminal matters within the territorial limits of the town as are possessed and exercised by justices of the peace of this state.

Proviso.

Members of council and policemen empowered to make arrests.

33. That any member of the council during his term of office, and any policeman of said town, shall have the power, on witnessing any breach of the peace or any violation of a town ordinance, to forthwith arrest and take into custody, without warrant, the offender or offenders, and to take said offender or offenders before the recorder of the town for a hearing.

Convictions before recorder, how reviewed.

34. That every conviction for violating a town ordinance had before the recorder, either with or without a jury trial, may be reviewed by appeal to the court of common pleas of the county in the same manner and upon the same terms as appeals are or may be taken from courts for the trial of

small causes, and in case the judgment appealed from shall be imprisonment, the said recorder or any judge of the court of common pleas may admit to bail the party appealing during the pendency of his appeal ; but no judgment for the violation of any ordinance shall be reversed for any imperfection, omission, defect in or lack of form, nor for any error except such as shall or may have prejudiced the defendant in maintaining his defense upon the merits.

35. That the officers empowered to serve process issued by the recorder shall be, besides the constables elected or appointed within the town, the policemen of the town, and that said process shall be returned in the same manner, so far as circumstances may permit, as warrants in courts for the trial of small causes are returned, and the defendant or defendants named therein shall, if the recorder sees fit to adjourn the hearing of the charge made and so orders, enter into recognizance, as near as may be, in the manner directed in the courts for the trial of small causes, in the amount of the penalty named in the process or in any proceedings brought for the recovery of the same, with such surety as may be approved by the recorder, unto the town, by its corporate name, for his or their appearance on the day to which said hearing may be adjourned, and in default of such appearance the said recognizance may be prosecuted and collected in the same manner as the same might have been if the said recognizance had been taken in a proceeding in courts for the trial of small causes.

Proceedings when process is issued by recorder, &c.

36. That the councilman-at-large, assessor and overseer of the poor shall each hold office for the term of two years, and the said assessor and overseer shall perform all the duties required of such officers by law in the several townships of this state and the ordinances of the town.

Councilman-at-large, assessor and overseer of the poor, term of office and duties.

37. That the town attorney shall be appointed by the council ; he shall hold his office for the term of one year, and shall perform such duties as the council shall by ordinance prescribe.

Town attorney, term of office and duties.

38. That the town surveyors shall be designated from time to time by the council, and they shall give bonds in such penalty and upon such condition, and shall receive such compensation for the service they may render as the council shall by ordinance prescribe.

Town surveyors, how appointed, &c.

39. That the poundkeepers shall be appointed by the council, and shall hold their office for such term, and shall perform such duties, in addition to the duties imposed upon them by any law of this state, as the council may by ordinance prescribe.

Poundkeepers, how appointed, &c.

40. [Amended by Sec. 88, *post.*]

41. That the chief of the fire department shall be elected annually on the first Monday in May in each year, and shall hold his office for one year from the first day of June next ensuing his election ; the active firemen of the department shall alone be qualified to vote at such election ; the election shall be held and conducted under such rules and regulations as the council shall by ordinance prescribe.

Chief of fire department, how and when elected, &c.

42. [Amended by Sec. 96, *post.*]

43. That the council shall, on the first day of April in each year, cause to be printed a full statement of all receipts and expenditures of every description for the year preceding, with all such further information as may be necessary for a full understanding of the financial concerns of the town, and that it shall be the duty of the town clerk to distribute such printed statements among the people of the town or to furnish a copy of such statement to every citizen applying for the same.

Council to cause statement of finances to be printed annually.

Town clerk to distribute.

44. That a majority of the council shall be a quorum for the transaction of business, but a smaller number may meet and adjourn from day to day ; the council shall hold stated meetings at least twice in each month at the town hall, at such times as they may appoint, but the chairman or any two councilmen may call special meetings by written notice to each of the members, served personally or left at his usual place of abode, at least twenty-four hours previous to the time appointed for such meeting, but no business other than that specified in the call shall be transacted at such special meeting, and no business by this act required to be done at a stated meeting of the council shall be done or performed at any such special meeting.

Majority of council to be a quorum.
When meetings held.

Contracts in which councilmen interested, void.

45. That all contracts in which any councilman shall be interested, either directly or indirectly, or in which any councilman may be surety for the faithful performance thereof, shall be null and void, and no member of the council shall become security for any public officer elected or appointed under this act.

How ordinance passed.

46. That no ordinance or by-law shall be passed by the town council, unless the same shall have been introduced at a previous stated meeting, and shall be agreed to by a majority of the members of the council; and no ordinance shall take effect until five days after it shall have been published in the official newspapers of the town, and if there be none, in at least one newspaper published in the county and circulating in the town; *provided, however,* that no ordinance for opening, grading, flagging, curbing, paving or macadamizing any street, avenue or public place, or for the construction of any sewer, or for any street improvement, shall be passed or adopted, unless it shall receive the votes of two-thirds of the members of the council.

When to take effect.

Proviso.

Council may pass ordinances for certain purposes.

47. That the council may, by the title, "the council of the town of _____, in the county of _____," pass, adopt, alter, modify and repeal ordinances to take effect within the town for the following purposes:

To manage, regulate, protect and control the finances and property of the town; to make and adopt an assessment map or maps whereby to describe lands assessed for taxes or improvements; to ascertain and establish the boundaries of all streets, highways, public lanes and alleys in the town; to regulate, clean and keep in repair the streets, highways, lanes and alleys in the town, and to prevent and remove all encroachments, obstructions and incumbrances in and upon all streets, highways, lanes and alleys, sewers, drains and water-courses; to prescribe the manner in which corporations or individuals shall exercise any privilege granted to them in the use of any street, highway or alley, or in digging up any street, highway or alley for any purpose whatsoever; to direct and regulate the planting, rearing, trimming and preserving of ornamental shade trees in the streets, parks and public places of the town, and to authorize or prohibit the removal or destruction of such shade trees; to name and number the streets, houses and lots in the town; to provide for and enforce the removal of snow and ice from the sidewalks and gutters of streets, by the owners of land fronting thereon, and to provide that in case of neglect or refusal of or by the owner of any lot of land fronting on a public street or highway to remove snow or ice from the sidewalks and gutters in front of his lands, that the council may cause the same to be done at the expense of such owner, and that the cost and expense thereof, with interest thereon shall be added to and shall form part of the taxes next to be levied and assessed upon such lands, and shall be and remain a lien upon such lands until paid; to regulate the use of streets, highways and public places by individuals, vehicles, railways and engines of every kind; to prevent and punish horse-racing and immoderate driving or riding in any street, and to regulate the speed and running of locomotives, engines and railroad cars through the town; to regulate and control the passage through the streets and public places of buildings and other large structures; to prevent animals of all kinds from running at large in the streets or public places of the town, and for the impounding, sale or destruction of the same, and to regulate and prevent the driving of cattle or other animals in droves in or through any of the streets of the town; to prevent and prohibit any practice having a tendency to frighten animals or persons passing in the streets of the town; to regulate or prohibit all public performances and exhibitions for money; to prevent and suppress vice and immorality; to restrain or punish tramps, vagrants, mendicants and street beggars; to preserve the public peace; to prevent and quell riots, disturbances and disorderly assemblages; to restrain and suppress disorderly and gaming-houses and houses of ill-fame; [to regulate] to establish and regulate one or more public pounds, and to provide for the sale of animals impounded, and to fix the fees to be paid persons impounding animals, and the redemption fees to be paid; to regulate and prevent and to provide for the destruction of dogs running at large; to regulate or prohibit swim-

ming or bathing in the waters of or bounding the town ; [to] buildings that are dangerous to life ; to regulate or prohibit the carrying on of manufactures dangerous in causing or promoting fire ; to regulate or prohibit the manufacture, sale, keeping, storage or use of fireworks, gunpowder, camphene, kerosene, burning-fluid, nitro-glycerine, dynamite or other inflammable or explosive materials ; to raze and demolish any building or erection when necessary to prevent the extension of a conflagration, and to provide for the ascertainment and payment of just damages and compensation to owners of property destroyed in such cases ; to regulate or prohibit the use of firearms and the carrying of weapons of any kind ; to erect, provide, repair and control a town hall, police and station-houses, fire engines and such other buildings as may be necessary ; to regulate, license or prohibit inns, taverns and restaurants and the sale or transfer of spirituous, vinous, malt or other strong or intoxicating liquors ; *provided, however,* that no such license shall be granted to any person who is not a citizen of the United States ; and to fix and prescribe the terms and conditions upon which licenses for such purposes shall be granted, and to provide for the revoking and annulling of licenses for violations of such conditions ; *provided, however,* that all such conditions shall be printed on the license ; *and provided further,* that no license shall be granted unless the applicant shall first pay to the town clerk such license fee as may be required by any general law of this state, and if there be no general law, such fee, not less than fifty dollars, as may be fixed by ordinance, and, if the application is rejected, the deposit shall be returned ; to provide that the penalty for a second conviction within six months of a violation of any such ordinance shall be a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding three months ; to license and regulate cartmen, porters, hack, cab, omnibus, stage and truck-owners and drivers, carriages and vehicles used for the transportation of passengers and merchandise, goods or articles of any kind, and to require the owners to mark vehicles in such manner as the council shall designate ; and to license and regulate auctioneers, common criers, pawnbrokers, junk-shop keepers, sweeps and scavengers, and to prohibit unlicensed persons from acting in such capacities ; to license and regulate peddlers, hawkers and hucksters, and to require the payment of a license fee of not exceeding five dollars in all cases, except as herein otherwise provided ; and no license granted for any of the aforesaid purposes by any other authority shall be valid, except license granted by the governor to hawkers and peddlers ; to fix the penalty where the same is not fixed or provided for by this act for the violation of any ordinance by this act authorized to be passed, which penalty shall be a fine not exceeding twenty dollars, and, in case of non-payment thereof, imprisonment in the county jail not exceeding thirty days ; to provide for, establish, regulate and control a fire department and to establish rules for the government thereof (whose members shall be exempt from militia duty in time of peace, and from serving as jurors in courts for the trial of small causes), and to provide engines and other fire apparatus, and to designate the manner of appointing and removing members of the fire department ; to provide for the government of the fire department and the care and repair of the engines and other fire apparatus, and for the purchasing of necessary supplies by a board of fire commissioners consisting of five members, to be appointed by the council, who shall hold office for one year, and who shall receive no salary ; and to further provide for the payment of the lawful debts contracted or incurred by such commissioners.

Proviso.

Proviso.

Proviso.

48. That the council shall have power by ordinance to regulate the use of the streets of the town by street railway companies ; to require such companies to lay and confine their tracks according to such grades of the streets as may from time to time be established by the council ; to keep that portion of the street lying between the rails paved and in good repair, also to keep the street to the extent of eighteen inches beyond the rails in good repair and on a level with the rails ; to keep their tracks free from snow and ice and to compel the removal of the same from the streets ; and to provide a penalty not exceeding fifty dollars for every violation of such ordinance.

To regulate use of streets by street railway companies.

Penalty.

When boundary line of town is a street or road, to regulate use of same.

Penalty.

To provide for police force.

Proviso.

Proviso.

Empowered to pass other ordinances.

Empowered to pass ordinances for raising money by taxation for certain purposes.

Power to provide for lighting of streets.

Power to provide for supply of water.

Power to designate official newspaper.

May borrow money in anticipation of revenues.

May direct special election to fill vacancy.

May require owners to keep flagging, &c., in good repair.

49. That in case the boundary line between any town formed under this act and any other municipality shall be one of the extreme lines of a street or road, such street or road being wholly within such town, it shall be lawful for the council of such town to pass ordinances regulating the use of such street or road by the owners or occupants of property in such other municipality adjoining such street or road, and to provide penalties for the violation of such ordinance not exceeding ten dollars fine; and it shall be lawful for any constable or policeman of such town to execute any process issued by the recorder for the violation of any such ordinance within the territorial limits of such other adjoining municipality.

50. That the council shall have power by ordinance to provide for, establish, regulate and control a day and night police, and to regulate and define the manner of their appointment and removal, their duties and compensation; *provided*, that such police force (excluding officers) shall not exceed more than one policeman to every eight hundred inhabitants; *and provided further*, that no policeman or police officer shall be removed except for neglect of duty, misbehavior, incompetency or inability to serve.

51. That the council shall have full power to enact and pass such and so many other ordinances or by-laws for the peace, good government, order, welfare and convenience of the town as they may deem necessary, proper and expedient, not repugnant to this act or to the constitution of this state or of the United States.

52. That the council shall have power to pass ordinances appropriating and providing for raising by taxation moneys for the following purposes:

- I. For lighting the streets of the town;
 - II. For the support of the police department;
 - III. For the maintenance of the fire department;
 - IV. For regulating, cleaning and keeping in repair streets and highways;
 - V. For repairs to public buildings;
 - VI. For the relief of the poor;
 - VII. For water for the extinguishment of fires;
 - VIII. For the payment of interest upon the debt of the town and such part of the principal as shall from time to time become due and payable;
 - IX. For the sinking fund required to be raised;
 - X. For the general and incidental expenses of the town, including the printing and publication of minutes of council, ordinances and such other matters required by law to be published;
 - XI. For the support of public schools;
- and no appropriations shall be made or ordered for any other purpose, except by a majority of the voters of the town voting at an annual town election.

53. That the council shall have power to provide for the lighting of the streets, avenues and public places of the town, in such places as they in their judgment may deem necessary.

54. That the council shall have power to provide for a supply of pure and wholesome water to the inhabitants, and for extinguishing fires, by contract, either with private corporations or with adjoining municipalities owning or controlling water works; and the council shall have power to fix and determine the terms and conditions upon which private companies may lay their mains or pipes in the streets of the town.

55. That the council shall have power to designate an official newspaper in which all advertisements and notices required by law to be published shall be published.

56. That the council shall have power to borrow money temporarily in the name of the town in anticipation of appropriated revenues not exceeding in amount one-half of such anticipated revenues.

57. That the council shall have power at any time to direct a special election to fill any vacancy that may occur in their own body.

58. That the council may require the owners or occupants of any parcel of land fronting on any improved street to keep the flagging, curbs and gutters in front of such land in good repair, and if in any case, after reasonable notice, such repairs be not done by such owner or occupant, the

council may have the same done, and the expense thereof, with interest and costs, may be recovered by the council by suit in the name of the town against such owner, as for so much money due for labor performed and material furnished by said town for such owner or occupant, at his request, or may be assessed as a tax on such lot, and shall be a lien thereon and be collected as other taxes are collected.

59. That the town council shall appoint three discreet persons, residents and freeholders of the town, to be commissioners of assessment, and who shall hold their offices for three years ; the said commissioners shall make all assessments for improvements of every kind under this act ; *provided*, that if any of the said commissioners shall be interested in the matter of any such assessments, the council shall appoint some discreet and impartial freeholder or freeholders, resident in said town, to act in regard to such assessment in lieu of the commissioner or commissioners interested therein as aforesaid ; and every report of assessments made by commissioners of assessment shall be accompanied by the oath or affirmation of each commissioner making the same, that he is not interested, directly or indirectly, in the matter of the assessment, and that he has performed his duties in relation thereto honestly, faithfully and impartially, to the best of his ability, skill and understanding, which oath or affirmation the clerk of said town is hereby authorized to administer ; and the first commissioners appointed under this act shall determine among themselves by lot which of them shall serve for one, two and three years respectively, and thereafter annually one commissioner shall be appointed to serve for the full term of three years.

To appoint commissioners of assessment.

Proviso.

60. That the council shall have power and they are hereby authorized by ordinance—

Council empowered to do certain things.

To lay out, open, straighten, widen and extend any street, avenue or highway, or any part or section thereof, and to take and appropriate for such purpose any necessary lands and real estate upon making compensation to the owners thereof as hereinafter provided ;

To lay out streets.

To provide for grading and altering the grade of streets and avenues in the town, and filling, macadamizing, guttering, curbing, bridging, plank-ing, graveling, paving and repairing the same ;

To provide for grading, macadamizing, &c.

To make and adopt a general plan of sewerage and drainage for such town or any section thereof, conformably to which all sewers, drains, receiving basins and all other appurtenances of public drainage shall be made ;

To adopt plan of sewerage and drainage.

To provide for the building and constructing of public sewers and drains, and for taking land and real estate for building the same, and for acquiring an outlet for sewers over and through lands in adjoining municipalities ; *provided*, that the consent of such adjoining municipality and of such other municipality (if any) as may in any manner be affected by such outlet shall be to that end first obtained ; *provided, however*, that no ordinance for any of such purposes shall be passed except in the manner hereinafter stated and unless it shall receive the votes of two-thirds of the members of the council ; *and provided, further*, that any such ordinance may be introduced and passed at the same stated meeting of the council.

To provide for construction of sewers and drains.

Proviso.

Proviso.

Proviso.

61. [Amended by Sec. 102, *post.*]

62. That whenever, by the report and map of the said commissioners, corrected as aforesaid, it shall appear that an award has been made to any person for property taken or damages sustained, and that such person is also assessed for benefits received on account of the same improvement, then if the assessment equal or exceed the award, no payment shall be made on account of such award ; and if the award exceed the assessment, only so much of the award as is in excess shall be paid, and the resolution of the council ordering the awards to be paid shall be framed accordingly ; and when the amount to be assessed shall be finally determined, such amount shall be set off against the amount of the award unpaid ; and if the amount of the award unpaid be in excess, the assessment shall be canceled, and such excess only shall be paid to the person to whom the award is made ; and if the amount of the assessment be in excess, the award

How award paid for damages, &c.

unpaid shall be canceled and such excess only shall be a lien upon the property assessed ; the rest of the award or assessment, as the case may be, being also canceled.

Proceedings where persons are dissatisfied with determination.

Proviso.

63. That whenever any person who shall have presented objections as aforesaid, to an award, shall be dissatisfied with the determination of the council, thereupon such person may commence an action on contract against the said town 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 is located), which action shall proceed in all things as if such town had, upon taking the real estate required for the said improvement, agreed in writing to pay therefor the value thereof and the damage done by taking the same ; and if in said action the plaintiff shall recover more than the amount awarded as aforesaid, he shall recover his taxable costs according to law ; and if he shall not recover more than the amount awarded, then the defendant shall recover his taxable costs against the plaintiff and shall be entitled to have them deducted from the amount recovered by the plaintiff, and execution shall issue only for the balance, the assessment (if any) against the plaintiff being also deducted from the amount of the judgment ; *provided, always*, that no such action shall be brought by any person who may have received payment of the amount awarded, nor unless notice that such action will be brought, be filed with the clerk of said council within sixty days after the confirmation of the award, nor unless such action be commenced within six months after such confirmation ; *provided further*, that the judge of the said circuit court may, upon petition, for good cause shown, and upon such terms as he may direct, dispense with either or all of the provisions in the last proviso contained.

Proviso.

Proviso.

64. [Amended by Sec. 103, *post.*]

65. [Amended by Sec. 104, *post.*]

Council may appoint inspector over sewer or street improvement.

66. That the council may appoint an inspector over the work and materials on any sewer or street improvement and may fix his compensation ; the amount of such compensation shall be included in and form part of the cost of the improvement.

Before work accepted, council to publish notice of meeting to hear objections.

67. That before the council accept any work on any sewer or street improvement, or any final payment be made to the contractor, the council shall publish as aforesaid a notice stating when the council shall meet to receive and consider objections in writing, the work and materials done and used in such improvement, and if any such objections shall appear to be well founded, the council shall take such action thereon as in their judgment the interests of the town shall require.

Proceedings when necessary to take or use private property.

68. That where it shall be necessary in the construction of any public sewer to take or use private property for that purpose, the council shall have power to provide, in the ordinance for the building or constructing of any such sewer, for the taking of such private property as is necessary ; for that purpose the damages and awards to be made for lands so taken shall be determined and made by the commissioners of assessment, who shall report the same to the council, and thereafter the proceedings shall be the same in all respects as are hereinbefore provided for opening of streets.

Town and adjoining municipality may contract for payment of sum for right to connect sewers.

69. That where any town shall be so situated that it shall have no immediate outlet for sewerage, except through adjoining municipalities or by connections with sewers existing or contemplated to be built in adjoining municipalities, it shall be lawful for the town council of the town and the governing body of such adjoining municipality to enter into contract for the payment of a sum in gross by such town for the right to connect with any sewer or sewers in such adjoining municipality, and the amount of such contract price shall be included in the costs of making the sewer in and through such town which it is proposed so to connect with the sewer in the adjoining municipality, and shall be assessed in the manner hereinafter directed as if such contract price were portion of the cost of wholly constructing the sewer within the territorial limits of the town.

70. [Amended by Sec. 105, *post.*]

71. [Amended by Sec. 89, *post.*]

72. That no certiorari, injunction or other writ or process shall be allowed or granted to set aside any ordinance for any improvement after the contract therefor shall have been awarded by the council of the town ; and no certiorari, injunction or other writ or process shall be allowed or granted to set aside any assessment made for any sewer or street improvement of any kind after thirty days shall have elapsed from the date of the confirmation of such assessment by the council of such town.

When certiorari to set aside ordinance not allowed.

73. That the council shall have the power to issue bonds payable in not exceeding ten years, and bearing interest at not exceeding six per centum per annum, to raise moneys to pay for lands taken for opening or extending or widening streets, constructing roads or building sewers, or for the redemption of improvement certificates issued under this act, or to pay any judgment recovered against the town ; and the council may likewise issue bonds to run not exceeding ten years, and bearing interest at not exceeding six per centum per annum, as above, to renew such part of the bonded debt of the municipality of which the town is the successor which may become due and payable, and for the payment of which no provisions shall have been made.

Council may issue bonds, &c.

74. That the fiscal year of the town shall commence on the first day of May in each year.

Fiscal year, when to begin.

75. That all moneys received on redemptions of lands from sales for unpaid taxes, and for or on account of arrears of taxes, shall be apportioned to and among the several appropriations for which such taxes were raised, except that the costs of sale and redemption fee shall be paid into the incidental fund, and all moneys received on redemptions of lands from sales for unpaid assessments shall be paid into the sinking fund, excepting costs of sales, which shall be returned to the incidental fund ; all unexpended balances remaining at the close of any fiscal year shall be appropriated or transferred or otherwise disposed of as the council in its judgment shall deem proper.

Moneys from arrears of taxes, &c., how apportioned.

76. [Amended by Sec. 98, *post.*]

77. That all moneys received for licenses, and all other moneys received and not specifically appropriated, shall be paid into the incidental fund.

Moneys from licenses, &c., paid into incidental fund.

78. That all taxes and all assessments in such town shall bear interest at the rate of seven per centum per annum from the time the same became due and payable.

Rate of interest on taxes and assessments.

79. That all taxes and all assessments heretofore or hereafter levied, assessed or made upon any lands, tenements or real estate, situate in such town, shall be and remain a lien thereon until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereof ; and if the full amount of any such tax or assessment shall not be paid and satisfied within such time as shall be limited and appointed by the council for the payment thereof, it shall and may be lawful for the council to cause such lands, tenements or real estate to be sold at public auction for the shortest term for which any person will agree to take the same and pay such tax or assessment, or the balance due thereof remaining unpaid, with the interest thereon, and all costs, charges and expenses, and to execute under the common seal of said town a declaration of such sale, to be signed by the chairman of the council and the town clerk, and to deliver the same to the purchaser ; and such purchaser, his executors, administrators or assigns, shall, by virtue thereof, lawfully hold and enjoy the said lands, tenements or real estate for his and their own proper use against the owner or owners thereof, and all persons claiming under him or them, until said term shall be completed and ended ; *provided*, the said council shall first have caused said sale to be advertised for at least two months in its official paper, or, if none, then at least in one public newspaper published in the county, and circulating in such town, and also by advertisement put up in at least five public places in such town, which advertisement shall describe the said lands, tenements or real estate, and specify the amount of assessment or tax ; and the recitals in such declaration of sale shall be evidence of the assessment, advertising and sale ; *and provided, also*, that the purchaser shall not be entitled to possession of lands so

Taxes and assessments to be liens on lands and real estate.

Proceedings to sell lands when not paid.

Proviso.

Proviso.

purchased until the period herein limited for redemption shall have expired ;
and provided, also, that the lands tenements or real estate so sold may be
 redeemed by the owner, mortgagee, occupant or persons interested therein
 or by any other persons, or in behalf of the owner, mortgagee or claim-
 ant of such lands, tenements or real estate, at any time within two years
 after the sale for either taxes or assessments, or for both, by paying to the
 treasurer of the town, for the use of said purchaser, the purchase-money,
 together with any other sum paid for tax or assessment, which the said pur-
 chaser may have paid, chargeable on such lands, tenements or real estate
 and which he is hereby authorized to do, with interest thereon at the rate
 of fifteen per centum per annum, in addition thereto ; and the certificate
 of the treasurer of the town, stating the payments, and showing what
 lands, tenements or real estate such payment is intended to redeem shall be
 evidence of such redemption ; any mortgagee shall have power to redeem
 at any time until the expiration of the six months' notice therein specified ;
 no mortgagee whose mortgage shall have been duly recorded before sale for
 any tax or assessment shall be affected by such sale until six months'
 notice, in writing, shall have been given to him, either personally, or if not
 to be found in said town, then such notice shall be deposited in the post-
 office, in said town, directed to him at his last-known place of residence (or
 at the post-office nearest thereto), but nothing therein contained shall be so
 construed as to impair the lien created by such tax, assessment or sale ;
and provided, the same term of time for which any lands, tenements or real
 estate so sold as aforesaid, shall not commence, nor shall said purchaser or
 those claiming under him have a right of possession to said lands, tene-
 ments or real estate until the two years limited for the redemption of the
 same shall have expired ; and the said purchaser, or those claiming under
 him, shall, at the expiration of the time limited in such declaration of the
 sale, quit and surrender the said lands, tenements, or real estate in as good
 state and condition as when he entered thereon, natural wear and accidents
 excepted ; *provided, also*, that the said sale may be adjourned or postponed
 from time to time, or suspended, as the council or their committee, ap-
 pointed to attend to said sale, may direct ; *and provided*, that if at any sale
 of lands, tenements or real estate, for assessment or taxes, the whole or
 any part thereof shall remain unsold for want of purchasers, then it shall
 be lawful for the said council or said committee to adjourn sale not less
 than thirty days nor more than sixty days ; twenty days' notice at least,
 by publication for two weeks and posting, shall be given as aforesaid of
 the said adjourned sale ; and if, at such adjourned sale, there shall be no
 purchasers for said lands, tenements or real estate, or for any part thereof,
 then it shall be lawful for the treasurer of the said town to purchase the
 said lands, tenements or real estate for any term not exceeding one hun-
 dred years for the benefit of the town, subject to the same redemption as
 hereinbefore provided for ; *provided, also*, that all moneys paid for the
 redemption of said lands, tenements, or real estate as aforesaid, together
 with all taxes and assessments paid by any mortgagee or judgment creditor,
 shall be a lien upon said lands, tenements or real estate for the amounts so
 paid, with interest at the rate of seven per centum per annum, and such
 lien shall have precedence over all other liens on said lands, tenements or
 real estate ; *provided, further*, that a complete record of all taxes and assess-
 ments shall be kept in the town clerk's office, which record shall contain
 the time when such assessment and taxes were laid, the time when they
 were paid (and if the property has been sold therefor), the time of said
 sale and to whom sold, and if redeemed, when and by whom ; it shall be
 the duty of the town clerk to enter in a book to be called " record of sales "
 a minute of all declarations of sales, and to give certificates of search in
 relation to liens to any person or persons applying for the same, and to
 cancel such declarations when the property for which they were given shall
 be redeemed, on the certificate of the town treasurer of such redemption,
 and to file such certificate in the said clerk's office ; it shall be the duty of
 the treasurer to make out two certificates of all property redeemed, one for
 the person redeeming and one to be filed in the said clerk's office ; it shall

be lawful for the council of said town to sell, assign and transfer any declaration of sale or any term in lands purchased for the benefit of said town as aforesaid, or any portion of a term, for such price as said council may think proper.

80. That the assessor shall levy a tax upon every person who owns or has the care of any dog, male or female, as follows : one dollar for each male dog, and three dollars for every female dog, in lieu of the state law, which tax shall be appropriated to the support of the school.

Dog tax to be levied.

81. That the assessor shall complete his assessment and present his books to the council for examination by the third Monday in September, annually and the council shall complete their examination of the same by the first Monday in October ; immediately thereafter the collector shall give notice as required by section ten of the tax act, and within thirty days thereafter the collector shall make the demand and give the notice as required by section eleven of the tax act, and the day fixed by him for the payment thereof shall not be later than December twentieth.

When assessor to complete assessment.

Collector to give notice and make demand.

82. [Amended by Sec. 97, *post.*]

83. That all general laws and statutes of this state heretofore passed relating to incorporated towns shall be and they are hereby made applicable to any town formed or created under this act, except in so far as the same may be inconsistent with or repugnant to the provisions of this act.

Former laws applicable to town formed under this act.

Supplement.

Approved March 27, 1889.

P. L. 1889, p. 105.

84. SEC. 1. [This section, amending Sec. 1, *ante*, is again amended by Sec. 90, *post.*]

Amendatory act.

Approved April 8, 1889.

P. L. 1889, p. 218.

85. SEC. 1. That section five of the act entitled "An act to provide for the formation and government of towns," approved April twenty-fourth, one thousand eight hundred and eighty-eight, be and the same hereby is amended so as to read as follows :

[That it shall be the duty of the council, township committee or other governing body of such town, borough or township, which shall have voted as aforesaid for incorporation as a town under this act, to divide such town into not less than three wards ; each ward shall consist of contiguous territory, and each shall contain as nearly as possible an equal number of inhabitants ; *provided, however,* that such division into wards shall be made at least one month before the first annual town election held under this act ; *and provided, further,* that where any town, borough or township shall have been divided into three or more wards before adopting this act, such division shall continue, and such existing wards shall constitute the wards of the town as formed and incorporated under this act.]

Council, &c., to divide town into three wards, &c.

Proviso.

Proviso.

86. SEC. 2. [This section, amending Sec. 6, *ante*, is again amended by Sec. 94, *post.*]

87. SEC. 3. That section twenty-five of said act be and the same is hereby amended so as to read as follows :

[That the salaries and compensation to be paid to the town clerk, the town collector, the town treasurer, the town attorney, the recorder, the assessor, the chief of police and members of the police force, the overseer of the poor, the town surveyors, poundkeepers, commissioners of appeal, commissioners of assessment and members of the town council shall be fixed by ordinance of the town council, and no town or ward officer other than those in this section specified, excepting the clerk of the board of education, shall receive any salary, fees or compensation whatsoever, from the town, for his services, and the salary or compensation of any officer which has been fixed as aforesaid, shall not be increased or diminished during his term of office, and all fees paid to any of said officers for any services required of him by this act or by any ordinance or resolution of the town council, shall, immediately after the receipt thereof, be paid by

Salaries of certain officers fixed by ordinance of council, &c.

such officer to the town treasurer for the use of the town, unless herein otherwise specially provided.]

88. SEC. 4. That section forty of the said act be and the same is hereby amended so as to read as follows :

Members of board of commissioners of appeals, how appointed, &c.

[That the members of the board of commissioners of appeals shall be appointed by the council, and shall hold office for three years ; they shall perform such duties as are now or hereafter may be by law enjoined upon commissioners of appeals in cases of taxation, and at the time of the first appointment of such board under this act, the term of office of each member shall be designated by the council, and thereafter all appointments to said board, except to fill vacancies, shall be for the term of three years.]

89. SEC. 5. That section seventy-one of said act be and the same hereby is amended so as to read as follows :

Cost of improving streets and sewers, how ascertained and assessed.

[That the cost and expense of widening, opening or extending any street, and after the completion thereof the whole cost of any street sewer or other public improvement, shall be ascertained and determined by the commissioners of assessment, and such cost and expense shall, so far as the same can be, be assessed upon the lands and real estate specially benefited by the improvement, in proportion to the benefit received ; and no lot or parcel of land shall be assessed more than it is so specially benefited ; and if the total cost of any improvement shall exceed the aggregate assessable special benefits, the excess shall be borne and paid by the town at large ; the commissioners shall file their report with the town clerk, which shall be accompanied by a map showing what lots and parcels of land are specially benefited by the improvement, the amount assessed as special benefits upon each lot or parcel of land, and the names of the owners of the several lots and parcels of land assessed, so far as the commissioners can ascertain the same, and the amount, if any, of the excess of the cost of the improvement over the aggregate assessable special benefits ; but no assessment shall be deemed defective by reason of any mistake in the names of the owners of lands assessed, or omitting the said names or any of them ; the clerk shall publish and post notices in the same way and manner hereinbefore prescribed for publishing and posting the petition for the improvement and its accompanying notice, stating that the map and report of the commissioners have been filed in his office, and that the council will consider any objections to such report, map and assessment presented in writing on or before a day named in such notice to be fixed by the town council, which day shall be at least ten days after the first publication of such notices ; after considering such report, map and assessment, and such objections as may have been presented against the same, the said council may confirm the said report, map and assessment, or if deemed necessary may return the same to the commissioners for revision and correction, who shall return the same corrected and revised without unnecessary delay ; and thereafter the council may, without further notice, confirm the said report, assessment and map.]

Amendatory act.

P. L. 1892, p. 93.

Approved March 10, 1892.

90. SEC. 1. That section one of said above-recited act [see Secs. 1 and 84, *ante*] be and the same hereby is amended so that said section shall read as follows :

Inhabitants of town, borough or township may be incorporated into a town.

[That the inhabitants of any town or borough, or of any township having a special charter, or of any township which has or hereafter may have a population exceeding five thousand inhabitants, may become a body politic and corporate in fact and in law by the name and title of "the town of [specifying the name borne by such town, borough or township], in the county of [specifying the county in which the same is situated]," whenever at any special election called for that purpose, or at any town or charter meeting, or election, at which the question of incorporating under this act is submitted, as hereinafter provided, it shall be so decided by a majority of the voters thereof voting at any such election.]

When decided at special election.

91. SEC. 2. That section two of said act be and the same hereby is amended so that the same shall read as follows :

[That the council, township committee or other governing body of any such town, borough or township, upon the petition, in writing, of at least fifty resident freeholders, may by the votes of a majority of all the members thereof adopt an ordinance for the holding of a special election in such town, borough or township for the purpose of deciding whether such town, borough or township shall become incorporated as a town under the provisions of this act, which ordinance shall prescribe the time and place or places of holding such special election and such other regulations respecting the same as may be deemed necessary and proper ; *provided, however,* that instead of providing for a special election such ordinance may provide for submitting the question of incorporating as a town under this act, to the voters of such town, borough or township at the town or charter meeting or election to be held next thereafter.]

Governing body of town, &c., upon petition, may pass ordinance for holding election.

Proviso.

92. SEC. 3. That section three of said act be and the same hereby is amended so that the same shall read as follows :

[That if a special election be called, notice of the same shall be given by advertisement published in the official newspaper or newspapers (if any) of such town, borough or township, and if there be none, in at least two newspapers published in the county and circulating in such town, borough or township, at least once in each week for two weeks successively, and by printed notices posted in at least one hundred conspicuous places therein, at least fifteen days next preceding the time appointed for such special election, which advertisements and notices shall specify and set forth the time, place or places and the object and purpose of holding such special election ; and in case said ordinance provides for submitting the question of incorporating as a town under this act at a town or charter meeting or election, notice thereof shall be given by advertisement published in the official newspaper or newspapers of such town, borough or township (if any), and if there be none, in two newspapers published in the county and circulating in such town, borough or township, for two weeks successively, next preceding the day appointed by law for holding such election, at least once in each week, and by printed notices posted in at least one hundred conspicuous places therein, at least fifteen days prior to the day appointed by law for holding such election, which advertisement and notices shall set forth that the question of incorporating as a town under the provisions of this act will be submitted at the next ensuing town or charter meeting or election.]

Notice of election, how given.

93. SEC. 4. That section four of said act be and the same hereby is amended so that the same shall read as follows :

[That any special election held under the provisions of this act shall be by ballot and shall be held and conducted under the general acts respecting elections, and the votes shall be canvassed and counted in the manner provided by law for canvassing and counting votes at town or local elections held in such town, borough or township ; the ballots shall contain the words "for incorporation as a town under the act entitled 'An act providing for the formation and government of towns,' " or "against incorporation as a town under the act entitled 'An act providing for the formation and government of towns ;' " and in case the question of incorporation as a town under this act shall be submitted at a town or charter meeting or election, the words "for incorporation as a town under the act entitled 'An act providing for the formation and government of towns' " shall be printed on each ballot beneath the list of candidates thereon ; if said words or proposition be marked off or defaced upon the ballot it shall be counted as a vote against the same, if not marked off or defaced the ballot shall be counted as a vote in favor thereof ; if a majority of the votes so cast at any special, town or charter meeting or election shall be in favor of incorporation as a town under this act, then within three days after the result of the election shall have been declared, a certificate of the result of such election, signed by the chairman of the council, committee or governing body of such town, borough or township, and attested by

How special election conducted.

If majority of votes in favor of incorporation, certificate of result, &c., to be filed with secretary of state.

the clerk thereof, together with certified copies of the petition, ordinance, and statement of the board of canvassers or election officers who canvassed the vote, and proof by affidavits that due notice of such election was given, shall be filed with the secretary of state, and from and after filing the same such town, borough or township shall be and it is hereby declared to be a body politic and corporate in fact and in law by the name and title aforesaid, and by said name and title shall have perpetual succession, sue and be sued, prosecute and defend in all courts in this state; have a common seal and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of the town.]

94. SEC. 5. That section six of said act [see Secs. 6 and 86, *ante*] be and the same hereby is amended so as to read as follows :

[That the officers of any town, borough or township which has voted as aforesaid for incorporation as a town under this act, who shall hold office at, or whose terms of office may commence after the time of filing the aforesaid certificate with the secretary of state, shall, except as hereinafter provided, continue to hold their respective offices until the first day of May next succeeding the first annual town election held under this act and until their successors in office shall be elected or appointed, and shall in all things be subject to the provisions of this act in the same way as if they had been elected hereunder; and no surety of any such officer shall be discharged from liability on account of any change made in the duties of such officer by this act, unless within five days after this act becomes operative in such town he shall in writing notify the council of his intention to withdraw from his suretyship, in which case he shall be discharged from liability from the time this act becomes operative in such town, and the council may require such officer to furnish new or additional sureties in place of those withdrawing as aforesaid, and if he fails or neglects so to do the council may declare his office vacant, and may fill such vacancy in the manner hereinafter prescribed for filling vacancies; *provided, however,* that in case any town, borough or township adopting this act shall have been previously divided into wards the members of the council, committee or governing body thereof shall respectively continue in office and serve out the terms for which they were elected, representing therein the wards in which they shall respectively reside, and no member of the council shall be elected from any ward until its representation therein shall have been reduced to less than two members.]

95. SEC. 6. That section sixteen of said act be and the same hereby is amended so that the same shall read as follows :

[That except as herein otherwise provided, at the first town election held under this act one member of the council from each ward shall be elected for one year, and one member for two years, and one member of the board of education shall be elected for one year, and one member for two years, and one member for three years; and the electors voting at such election shall designate on their ballots the terms for which the several candidates for said offices shall be elected; and thereafter annually a member of the council shall be chosen from each ward for two years, and a member of the board of education for three years.]

96. SEC. 7. That section forty-two of said act be and the same hereby is amended so as to read as follows :

[That the town council shall meet annually for organization on the first day of May unless that day shall happen to be Sunday, in which case they shall meet on the day preceding; the councilman-at-large shall be the chairman and shall preside at all meetings of the council; in his absence the council may elect one of their number as chairman for the time being; they shall appoint the times of meeting, determine and establish the rules of their own proceedings, and pass ordinances, by-laws and resolutions pertaining to the purposes and objects of the corporation and necessary and proper for carrying out the provisions of this act.]

97. SEC. 8. That section eighty-two of said act be and the same hereby is amended so that the same shall read as follows :

Officers of town,
&c., to continue
in office until
certain time.

Subject to pro-
visions of act.
Sureties not dis-
charged, &c.

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Election of mem-
bers of council
and board of
education.

Council to meet
annually for
organization.

[That all the property, real and personal, of the several school districts existing within the limits of any town, borough or township, before its incorporation under the provisions of this act, shall, upon such incorporation, become and be the property of such incorporated town, and shall be held in its corporate name, and the several obligations, contracts and debts of said previously-existing school district shall be assumed by and shall become and be the obligations, contracts and debts of said incorporated town; and that the board of education shall possess and exercise all the powers and perform all the duties by law vested in or imposed upon the trustees of school districts; they shall organize annually by choosing a chairman and a clerk, and may establish schools and provide for their government, and shall keep all school property in good repair; they shall define and fix the duties and compensation of their clerk, who shall also perform all duties enjoined by law on district clerks; *provided*, that no property shall be bought or building erected by the said board unless a majority of the voters of the town voting at an annual town meeting shall have voted an appropriation for that purpose; in case any appropriation for the purchase of land and the erection of a school building shall be voted by the electors of the town at any town election, the council shall issue bonds in the corporate name of the town for the amount of such appropriation in such denominations as they shall deem proper; such bonds shall be designated "school bonds," shall bear interest at not exceeding the rate of six per centum per annum, and shall not be sold for less than their par value; they shall be made payable in such manner that at the expiration of three years three-fifteenths thereof shall become due and payable, and thereafter one-fifteenth thereof shall become due and payable annually; the council shall provide for raising by taxation annually the interest thereon and one-fifteenth of the principal thereof; the proceeds of the sale of said bonds shall be held by the town treasurer, and shall be paid out by him on the warrants of the board of education; at any time after an appropriation is voted as aforesaid, the board of education may purchase the necessary land and enter into contract for the erection of a school building thereon, the title to which property shall be vested in the town by its corporate name.]

Property of school districts vested in town.

Board of education, powers and duties.

Proviso.

Supplement.

Approved March 24, 1892. P. L. 1892, p. 271.

98. SEC. 1. That section seventy-six of the act entitled "An act providing for the formation and government of towns," approved April twenty-fourth, one thousand eight hundred and eighty-eight, be and the same is hereby amended so as to read as follows:

[That there shall be annually raised by taxation a sum sufficient to pay all interest accruing on the bonded debt during the fiscal year, and also at least three and one-third per centum of the principal of such bonded debt, excluding therefrom bonds issued for street improvements, which shall be paid into the sinking fund.]

Annual sum raised by taxation for payment of bonded debt.

99. SEC. 2. That all proceedings for opening, widening, extending, grading, regulating and otherwise improving streets and avenues which may be pending and remain unfinished and incomplete at the time of incorporation under or adoption of this act by any town or township, shall be proceeded with and completed under the laws in force at the time such proceedings were commenced, and as if such town or township had not become incorporated under this act.

Unfinished work to be proceeded with under laws in force at time work was commenced.

100. SEC. 3. That in any town which may become incorporated under this act the yearly salaries to be paid to certain officers thereof, to whom, by the provisions of said act, salaries are authorized to be paid, shall not exceed the following sums, viz.: town clerk one thousand dollars, members of the town council five hundred dollars each, town collector one thousand dollars, town treasurer one thousand dollars, recorder six hundred dollars, assessor one thousand dollars.

Salaries of town officers.

101. 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.

Amendatory act.

Approved April 9, 1892.

P. L. 1892, p. 457.

102. SEC. 1. That section sixty-one of an act entitled "An act to provide for the formation and government of towns," approved April twenty-fourth, one thousand eight hundred and eighty-eight, be and the same is hereby amended so as to read as follows :

Proceedings to
lay out streets
or change
boundaries, &c.

[That streets or sections of streets shall be laid out, opened, straightened, extended, widened or otherwise changed as to their boundaries, in the following manner and not otherwise : a petition, in writing, signed by the owners of one-sixth of the property fronting on the improvement desired, shall be presented to the council, setting forth accurately the improvement desired ; if the council shall favor the petition the same shall be referred to the commissioners of assessment and a town surveyor not interested in such improvement, who shall thereupon make a map of such improvement, showing the real estate to be taken therefor, and all the property, which in the judgment of said commissioners, will be specially benefited thereby, designating each lot and parcel on said map by a letter or number ; said commissioners shall also ascertain, so far as practicable, the name of the owners of said real estate to be taken and property to be benefited, and the interest of each of the owners of real estate to be taken, and when such names or estates are not known they shall so report ; they shall also appraise the value of the interest of each known owner of real estate to be taken, and the damage to be done to such owner by taking the same ; and where the estates in any plot of land are unknown, they shall appraise the value of or the damage done to the fee-simple ; said commissioners shall also estimate all other expenses likely, in their judgment, to attend the completion of the improvement ; said commissioners shall also estimate the amount likely to be realized from the sale of any buildings, or parts of buildings, required to be taken on account of said improvement, and shall so determine the probable net cost of making the improvement ; this probable net cost they shall then assess upon the land to be specially benefited, in proportion to the benefit to be received ; thereupon they shall, under their hands, make a report of the facts ascertained and of the appraisements, estimates, determinations and assessments made by them concerning said improvement, and shall file such report and their map with the clerk of the town ; thereupon the said clerk shall cause a notice of the filing of said map and report to be printed in the official newspaper of the town, or, if there be none, in a newspaper published in the county and circulating in the town, for the period of two weeks, which notice shall contain a general description of the improvement intended of the land to be taken, and of the land to be assessed therefor, and shall state the time and place when and where the council will meet to hear and consider any objections to said report or to the improvement, which may be presented in writing ; said clerk shall also, within said period, cause notices to the same effect to be posted at points not over three hundred feet apart along the whole line of said improvement ; the time appointed for hearing such objections being not less than ten days after the expiration of said period of two weeks, and shall also, within the said period, serve a copy of such notice upon resident owners of real estate affected thereby ; but the omission of the clerk to serve such notice shall not invalidate any of said proceedings ; and all objections at such time and place, presented in writing, the council shall consider and adjudicate upon, and the awards or assessments made in said report may be corrected accordingly, a copy of which corrections, signed by the chairman of the council, shall be filed with the said clerk within twenty days after the expiration of said period of two weeks ; if the said council shall then determine to make said improvement, notwithstanding any objections to the same, the said council shall confirm said awards, with the corrections, if any, and pass an ordinance ordering said improvement to be made and completed in such manner as said council may direct, under the supervision of said commissioners of assessments ; *provided*, the said council shall not proceed to make any such improvement if

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the owners of the property subject to more than one-half of the assessment for the improvement shall remonstrate against the same being made; the said council shall also pass a resolution directing the several sums awarded to be paid to the persons to whom the awards are made for real estate taken and damages sustained in making said improvement, and upon the passage of such resolution the fee-simple of said real estate to be taken shall be vested in the town; *provided*, that where the commissioners shall have reported the name or estates of the owners of any plot as unknown, the said resolution shall direct the sum of the award on account of such plot to be paid to the owners thereof, when and as their interest may appear, and any such owner or person interested in said land may, by bill in chancery, according to the practice of that court, have the said sum distributed or in whole or in part paid over to him, as law and justice may require; after the completion of said improvement the said commissioners shall ascertain and determine the actual net cost thereof, and shall assess, as hereinafter provided, such actual net cost upon the lands specially benefited in proportion to the benefit received.]

Proviso.

103. SEC. 2. That section sixty-four of the said act be and the same is hereby amended so as to read as follows:

[That any street or section of a street may be graded, flagged, macadamized, paved, curbed, guttered or otherwise improved, as hereinbefore provided, in the following manner, viz.: on the petition in writing to the council by the owners of one-sixth of the lands fronting on the street proposed to be improved, the council shall, by resolution, direct the town clerk to advertise such application or petition and the notice hereinafter provided for, for at least two weeks, once in each week successively, in the official paper of the town, or if there be none, in one or more newspapers published in the county and circulating in the town, and to post copies of the said petition and notice in five public places in the town, designated by the council, at least ten days prior to the time fixed for the hearing of objections to such improvement; the clerk shall also publish and post as aforesaid, with the petition, a notice signed by him stating that objections in writing to said proposed improvement shall be filed with him, and designating the time and place when and where the town council will meet to consider such objections, which time shall not be less than ten days after the date of the first publication of such petition and notice as aforesaid; and the said clerk shall also serve like notice on the owners of property residing along the street or section of street so proposed to be improved, at least five days before the time designated in said notice; *provided, however*, that no assessment shall be set aside or affected by reason of the failure of said clerk to serve such notice; and at or before the time named in such notice the said clerk shall file in his office affidavits showing that such petition and notice have been published and posted as herein required; at the time named in such notice, the council shall proceed to consider such objections as shall have been presented, and if it appear that the owners of a majority of the land fronting on such proposed improvement have objected thereto, such improvement shall not be made, and all costs and expenses incurred in such proceedings shall be paid by the petitioners, to secure which the council shall in all cases require a deposit of twenty dollars before receiving any petition; and in case the owners of a majority of the lands fronting on the proposed improvements have not objected thereto, the council may, in its discretion, determine not to make such improvement, in which case the deposit made by the petitioner or petitioners shall be returned to him or them; and the defeat of any ordinance for such improvements, introduced before the council, shall be conclusive as to the determination of the council not to make such improvement; at any time after the time named in said notice for objections, the council may proceed to pass an ordinance for such improvement, and such ordinance shall be valid if it describes in general language the improvement required to be made and done, and it shall not be necessary to state therein any other matter or thing connected with said improvement; the town clerk shall publish and post such ordinance in the same manner and for the same

Proceedings to grade, macadamize, &c., streets.

Proviso.

time he is required to publish and post the petition for the improvement described therein ; and he shall file in his office an affidavit showing that such ordinance has been duly published and posted ; at any time after the passage of such ordinance the council may require the clerk to advertise for proposals for doing the work of and furnishing the materials necessary for such improvement, in the official paper of the town and in such other newspapers as shall be designated by the council, which proposals shall be presented in such form and manner and under such regulations as the council shall prescribe ; upon the coming in of such proposals the council may enter into contract with the lowest responsible bidders on the terms of their proposals ; *provided, however,* that the council may reject all bills if they deem it for the interest of the town so to do, in which case they shall again advertise for proposals and shall proceed in all things as if no proposals had been offered ; and the council shall require the person or persons so entering into contract with the town to give bonds with ample freehold security for the due performance thereof.]

Proviso.

104. SEC. 3. That section sixty-five of the said act be and the same is hereby amended so as to read as follows :

Proceedings to construct sewers.

[That sewers may be built and constructed in any of the streets of the town under the control of the town authorities on the petition of owners of one-sixth of the lands adjoining the proposed route of the sewer ; and the proceedings, after receiving such petition, shall be in all respects the same as are hereinbefore set forth for flagging and grading of streets ; and all the provisions of this act relating to flagging and grading of streets shall be applicable to proceedings for the construction of sewers, except as modified in and by this section.]

105. SEC. 4. That section seventy of the said act be and the same is hereby amended so as to read as follows :

Council may issue improvement certificates.

[That the council shall have power to issue improvement certificates, payable within one year or less with interest, to the amount of eighty per centum of the work done on any street, sewer or other public improvement when certified as correct by the engineer in charge of the work ; and when the contract is fully completed and the work is accepted, the town council may issue a certificate for an additional fifteen per centum of said work done, and in not less than three nor more than six months after the date of the acceptance of the work may issue a final certificate for the balance due, unless some errors or defects in the work shall have appeared, in which case the certificate shall be withheld until the defect or errors are rectified to the satisfaction of the council:]

Supplement.

Approved May 7, 1894.

P. L. 1894, p. 210.

Governing body may employ superintendents of roads and sewers and prescribe their duties.

106. SEC. 1. That in any town incorporated under the act to which this is a supplement, or which may hereafter be incorporated under said act, it shall be lawful for the council or other governing body of said town to employ a suitable person to act as superintendent of roads and highways in said town and to employ the same or other suitable person, to act as superintendent of the sewers and drains of said town, who shall receive such compensation for his or their services respectively as the council may determine ; the said superintendent of roads and superintendent of sewers and drains shall serve during the pleasure of the council and shall perform such duties as the council may by resolution or ordinance prescribe.

Repealer.

107. 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.

Supplement.

Approved February 26, 1895.

P. L. 1895, p. 124.

How number of wards may be increased.

108. SEC. 1. That it shall be lawful for the town council of any town in this state that heretofore may have, or hereafter shall, become a body politic and corporate under and by authority of the act of April twenty-fourth, one thousand eight hundred and eighty-eight, entitled "An act

providing for the formation and government of towns," upon the petition in writing of not less than fifty persons, who shall be citizens and voters of such town, from time to time to increase, by ordinance, the number of wards thereof, and to change the lines of such wards as may be now existing or that may be hereafter created; *provided, however*, that each ward shall consist of contiguous territory and shall contain, as nearly as possible, an equal number of inhabitants.

Proviso.

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

Repealer.

An act enlarging and extending the powers of incorporated towns in this state governed by boards of commissioners and of certain officers thereof.

Approved April 16, 1891.

P. L. 1891, p. 430.

110. SEC. 1. That the police justice of any incorporated town in this state governed by a board of commissioners shall hold his office for two years, and shall have jurisdiction to, and is hereby empowered, on oath, affirmation or affidavit, made according to law, that any person or persons has or have been guilty of a violation of any of the ordinances of the town, to issue process, either in the nature of a summons or warrant, as to him may seem most advisable, against the person or persons violating such ordinance, which process shall, when of the nature of a warrant, be returnable forthwith, and when in the nature of a summons be returnable in not less than three nor more than five days; that such process shall state what ordinance the defendant or defendants named therein has or have violated, and in what manner the same has been violated, and then, on return of such process, or at the time to which the police justice shall have adjourned the same, the said police justice shall proceed to hear testimony and to determine and give judgment in the matter without the filing of any pleadings, and the said police justice shall, if judgment be rendered for the plaintiffs, forthwith issue execution against the goods and chattels, and against the body of the defendant or defendants; and the said police justice shall be further empowered to inflict fines, not exceeding the sum of twenty dollars, on such persons as shall be convicted before him of vagrancy, disorderly conduct, breach of the peace, or, in his discretion, to order such persons to be committed to the county jail or town lock-up for any period not exceeding thirty days; *provided*, that in all cases when the fine or penalty shall exceed ten dollars, or where the punishment shall be imprisonment, there may be a trial by jury, to be conducted as in cases now triable in courts for the trial of small causes; police justices shall also have power to cause any person or persons who shall be found guilty of a violation of the ordinances of the town, and who may refuse or neglect to pay any penalty imposed, to be committed to the county jail for any period not exceeding thirty days; and the police justice shall be present at the station-house, or other place provided for him by the board of commissioners, at such hours every day as the board shall designate; and the police justice shall have the same powers in criminal matters, within the territorial limits of the town, as are possessed and exercised by justices of the peace of this state; all fines, penalties and license fees collected by him shall be paid to the town treasurer.

How process, &c., issued for violation of town ordinances.

Proviso.

111. SEC. 2. That any member of the board of commissioners during his term of office, and any marshal or assistant marshal, and any policeman of said town, shall have the power, on witnessing any breach of the peace or any violation of a town ordinance, to forthwith arrest and take into custody, without warrant, the offender or offenders, and to take said offender or offenders before the police justice of the town for a hearing.

Offenders may be arrested without warrant where officers witness the breach or violation.

112. SEC. 3. That every conviction for violating a town ordinance had before the police justice, either with or without a jury trial, may be reviewed by appeal to the courts of common pleas of the county in the same manner and upon the same terms as appeals are or may be taken from courts for the trial of small causes, and in case the judgment appealed from shall be

Conviction may be reviewed by appeal to courts of common pleas.

Judgment not to be reversed for imperfection or omission.

Who to serve process.

Trial and recognizance.

Commissioners may pass ordinances for certain purposes.

imprisonment, the said police justice or any judge of the court of common pleas, may admit to bail the party appealing during the pendency of his appeal; but no judgment for the violation of any ordinance shall be reversed for any imperfection, omission, defect in or lack of form, nor for any error except such as shall or may have prejudiced the defendant in maintaining his defense upon the merits.

113. SEC. 4. That the officers empowered to serve process issued by the police justice shall be, besides the constables elected or appointed within the town, the marshal, assistant marshals and the policemen of the town, and that said process shall be returned in the same manner, so far as circumstances may permit, as warrants in courts for the trial of small causes are returned, and the defendant or defendants named therein shall, if the police justice sees fit to adjourn the hearing of the charge made, and so orders, enter into recognizance, as nearly as may be, in the manner directed in the courts for the trial of small causes, in the amount of the penalty named, in the process or in any proceedings brought for the recovery of the same, with such surety as may be approved by the police justice, unto the town, by its corporate name, for his or their appearance on the day to which said hearing may be adjourned, and in default of such appearance, the said recognizance may be prosecuted and collected in the same manner as the same might have been if the said recognizance had been taken in a proceeding in courts for the trial of small causes.

114. SEC. 5. That the board of commissioners may by the title "the board of commissioners of the town of ———," pass, adopt, alter, modify and repeal ordinances to take effect within the town for the following purposes: to manage, regulate, protect and control the finances and property of the town; to make and adopt an assessment map or maps whereby to describe lands assessed for taxes or improvements; to ascertain and establish the boundaries of all streets, highways, public lanes and alleys in the town; to regulate, clean and keep in repair the streets, highways, lanes and alleys in the town, and to prevent and remove all encroachments, obstructions and incumbrances in and upon all streets, highways, lanes and alleys, sewers, drains and water-courses; to prescribe the manner in which corporations or individuals shall exercise any privileges granted to them in the use of any street, highway or alley, or in digging up any street, highway or alley for any purpose whatsoever; to direct and regulate the planting, rearing, trimming and preserving of ornamental shade trees in the streets, parks and public places of the town, and to authorize or prohibit the removal or destruction of such shade trees; to name and number the streets, houses and lots in the town; to provide for and enforce the removal of snow and ice from the sidewalks and gutters of the streets by the owners of lands by the owner of any lot of land fronting on a public or highway to fronting thereon, and to provide that in case of neglect or refusal of or remove snow or ice from the sidewalks and gutters in front of his lands, that the board of commissioners may cause the same to be done at the expense of such owner, and that the cost and expense thereof with interest thereon shall be added to and shall form part of the taxes next to be levied and assessed upon such lands, and shall be and remain a lien upon such lands until paid; to regulate the use of streets, highways and public places by individuals, vehicles, railways and engines of every kind; to prevent and punish horse-racing and immoderate driving or riding in any street, and to regulate the speed and running of locomotives, engines and railroad cars through the town; to require and regulate the establishment of gates or flagmen at any or all railway crossings within the corporate limits of the town; to regulate and control the passage through the streets and public places of buildings and other large structures; to prevent animals of all kinds from running at large in the streets or public places of the town, and for the impounding, sale or destruction of the same, and to regulate and prevent the driving of cattle or other animals in droves in or through any of the streets of the town; to prevent and prohibit any practice having a tendency to frighten animals or persons standing or passing in the streets of the town; to license, regulate or

prohibit all public performances and exhibitions for money ; to prevent and suppress vice and immorality ; to restrain or punish tramps, vagrants, mendicants and street beggars ; to preserve the public peace ; to prevent and quell riots, disturbances and disorderly assemblages ; to restrain and suppress disorderly and gaming-houses, and houses of ill-fame ; to establish and regulate one or more public pounds, and to provide for the sale of animals impounded, and to fix the fees to be paid persons impounding animals, and the redemption fees to be paid ; to regulate and prevent and to provide for the destruction of dogs running at large ; to regulate or prohibit swimming or bathing in the waters of or bounding the town ; to provide for the destruction of buildings that are dangerous to life ; to regulate the erection and construction of all buildings and to prescribe the material of which they shall be constructed ; to regulate or prohibit the carrying on of manufactures dangerous in causing or promoting fires ; to regulate or prohibit the manufacture, sale, keeping, storage or use of fireworks, gunpowder, camphene, kerosene, burning-fluid, nitro-glycerine, dynamite, or other inflammable or explosive materials ; to raze and demolish any building or erection when necessary to prevent the extension of a conflagration, and to provide for the ascertainment and payment of just damages and compensation to owners of property destroyed in such cases ; to regulate or prohibit the use of firearms and the carrying of weapons of any kind ; to erect, provide, repair and control a town hall, police and station-houses, fire engines, and such other buildings as may be necessary ; to provide that the penalty for a second conviction within six months of a violation of any such ordinance shall be a fine not exceeding one hundred dollars or imprisonment in the county jail or town lock-up not exceeding three months ; to license and regulate cartmen, porters, hack, cab, omnibus, stage and truck-owners and drivers, carriages and vehicles used for the transportation of passengers and merchandise, goods or articles of any kind, and to require the owners to mark vehicles in such manner as the board of commissioners shall designate ; and to license and regulate auctioneers, common criers, pawnbrokers, junk-shop keepers, sweeps and scavengers, and to prohibit unlicensed persons from acting in such capacities ; to license and regulate peddlers, hawkers and hucksters ; and no license granted for any of the aforesaid purposes by any other authority shall be valid, except license granted by the governor to hawkers and peddlers ; to fix the penalty where the same is not fixed or provided for by this act for the violation of any ordinance by this act authorized to be passed, which penalty shall be a fine not exceeding twenty dollars, and, in case of non-payment thereof, imprisonment in the county jail not exceeding thirty days ; to provide for, establish, regulate and control a fire department, and to establish rules for the government thereof (whose members shall be exempt from militia duty in time of peace, and from serving as jurors in courts for the trial of small causes), and to provide engines and other fire apparatus, and to designate the manner of appointing and removing members of the fire department ; to provide for the government of the fire department and the care and repair of the engines and other fire apparatus, and for the purchase of necessary supplies by a board of fire commissioners, consisting of five members, to be appointed by the board of commissioners who shall hold office for one year, and who shall receive no salary ; and to further provide for the payment of the lawful debts contracted or incurred by such fire commissioners ; *provided*, that the enumeration of powers made in this section shall not have the effect of excluding or repealing any other powers that may have been already conferred upon any board of commissioners, either by virtue of the act under which said board of commissioners originally derived their powers or any supplement thereto, or by virtue of any public act thereto, or by virtue of any public act heretofore passed, and not in this section specified or mentioned ; *and provided* Proviso. *further*, that nothing herein contained shall in any wise conflict with any of the provisions of an act entitled "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," approved March thirty-first, one thousand eight hundred and ninety. Proviso.

Commissioners may, by resolution, appropriate and raise moneys by taxation for certain purposes.

115. SEC. 6. That the board of commissioners shall have power by resolution to appropriate and raise by taxation moneys for the following purposes :

- For lighting the streets of the town ;
- For the support of the police department ;
- For the maintenance of the fire department ;
- For regulating, cleaning and keeping in repair streets and highways ;
- For repairs of public buildings ;
- For relief of the poor ;
- For water for the extinguishment of fires ;
- For the payment of interest upon the debt of the town and such part of the principal as shall from time to time become due and payable ;
- For the sinking fund required to be raised ;
- For the general and incidental expenses of the town, including the printing and publication of the minutes of the board of ordinances, and such other matters required by law to be published ;
- For the support of public schools ;

And for no other expenses except by a majority vote at annual town election.

And no appropriation shall be made or ordered for any other purpose, except by a majority of the voters of the town voting at an annual town election, or some special election called in the manner provided in the act incorporating such town, or some supplement thereto.

Assessor and collector, how appointed.

116. SEC. 7. That the board of commissioners may appoint two discreet and suitable persons, one to act as town assessor, and the other to act as town collector, who shall hold their offices for one year, and until their successors are appointed, provided that such appointment shall not be made in towns where such officers are elected by the people.

Duties of assessor and collector of taxes.

117. SEC. 8. That the assessor shall assess, and the collector collect the taxes in the same manner as the assessors and collectors of townships in this state are required by law to assess and collect ; and in case of non-payment of taxes, the said collector shall proceed to enforce the collection thereof as now required by law of township collectors in this state, in the act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, and the various supplements thereto ; the powers of the collector under this section shall apply as well in cases where taxes have been already assessed as in cases where assessments are made after this act takes effect, and no tax heretofore assessed shall be deemed illegal or uncollectible because no certain method for its collection shall have been provided before the passage of this act ; and it shall be lawful for the collector, in making out his list of delinquents, under the provisions of section three of the act entitled "A further supplement to an act entitled an act concerning taxes [Revision], approved April fourteenth, one thousand eight hundred and forty-six," which supplement was approved April seventeenth, one thousand eight hundred and seventy-six, to include all past-due taxes upon any mortgage or mortgages, or the debt or debts secured thereby, which shall have remained due more than sixty days, whether the same shall have been assessed in one or more years or not, and if, for any reason, any mortgage or mortgages shall not have been included in any such list, a supplementary list may be issued, which shall have all the effect of an original list.

To make list of delinquents.

Vacancies in elective offices, how filled.

118. SEC. 9. That in case of vacancies happening in any elective office, including the board of commissioners, by reason of death, removal, resignation, refusal to serve, or other cause, except in the case of election officers, on the day of election, it shall be filled by the board of commissioners at their next meeting thereafter, and such appointment shall continue until the next annual election, and no longer, and no such appointment shall be made by any retiring board of commissioners, any provision in any act, incorporating any town embraced under this act, or any supplement thereto notwithstanding.

Commissioners may require owners to fix sidewalks, curbs and gutters.

119. SEC. 10. That the board of commissioners may, by ordinance or resolution, require the owners or occupants of lands fronting on any street to lay sidewalks, or set curbs and gutters, or either, in front of the same, or to repair, or relay, or reset any sidewalk already laid, or curbing

and gutter, or either, already set, and if the same shall not be done within thirty days after written or printed notice so to do, served on any such owner or occupant, such board of commissioners may cause the same to be done, and the expense thereof, with interest and costs, may be recovered by such board of commissioners, by suit in their corporate name, or in the name of the town treasurer, against such owner or owners as for so much money due for labor performed and materials furnished by said board for such owner or owners or occupant at his or their request, or may be assessed as a tax on such lands, and shall be a lien thereon prior to any mortgage or other lien or incumbrance thereon, and be collected as other taxes are collected.

120. SEC. 11. That the board of commissioners shall have power to borrow money temporarily in their corporate name, or in the name of the town, in anticipation of appropriated revenues, not exceeding in amount one-half of such anticipated revenues.

Commissioners may borrow money in anticipation of revenues.

121. SEC. 12. That the board of commissioners shall have power at any time to direct a special election to fill any vacancy that may occur in their body.

May order election to fill vacancy in their body.

122. SEC. 13. That the board of commissioners shall appoint three discreet persons, residents and freeholders of the town, to be commissioners of assessment, and who shall hold their offices for three years; the said commissioners shall make all assessments for improvements of every kind under this act; *provided*, that if any of such commissioners of assessment shall be interested in the matter of any such assessments, the board of commissioners shall appoint some discreet and impartial freeholder or freeholders, resident in said town, to act in regard to such assessment in lieu of such commissioner or commissioners of assessment interested therein as aforesaid; and every report of assessments made by commissioners of assessments shall be accompanied by the oath or affirmation of each commissioner making the same that he is not interested, directly or indirectly, in the matter of assessment, and that he has performed his duties in relation thereto honestly, faithfully and impartially to the best of his ability, skill and understanding, which oath or affirmation the clerk of said town is hereby authorized to administer; and the first commissioners appointed under this act shall determine among themselves by lot which of them shall serve for one, two and three years respectively, and thereafter annually one commissioner shall be appointed to serve for the full term of three years.

Commissioners of assessments, appointment, term of office and duties.

Proviso.

123. SEC. 14. That the board of commissioners shall have power and they are hereby authorized by ordinance to lay out, open, straighten, widen and extend any street, avenue or highway or any part or section thereof, and to make and appropriate for such purpose any necessary lands and real estate upon making compensation to the owners thereof as hereinafter provided; to provide for grading and altering the grade of streets and avenues in the town, and filling, macadamizing, guttering, curbing, bridging, planking, graveling, paving and repairing the same; to make and adopt a general plan of sewerage and drainage for such town or any section thereof, conformably to which all sewers, drains, receiving basins and all other appurtenances of public drainage shall be made; to provide for the building and constructing of public sewers and drains, and for taking land and real estate for building the same.

Commissioners to lay out streets, sewers and change grade.

124. SEC. 15. [Amended by Sec. 138 *post*.]

125. SEC. 16. That whenever, by the report and map of said commissioners of assessment, collected as aforesaid, it shall appear that an award has been made to any person for property taken or damage sustained, and and that such person is also assessed for benefits received on account of the same improvement, then if the assessment equal or exceed the award, no payment shall be made on account of such award; and if the award exceed the assessment, only so much of the award as is in excess shall be paid, and the resolution of the board of commissioners ordering the awards to be paid shall be framed accordingly; and when the amount to be assessed shall be finally determined, such amount shall be set off against the amount

Equalization of assessment and award.

of the award unpaid ; and if the amount of the award unpaid be in excess, the assessment shall be canceled, and such excess only shall be paid to the person to whom the award is made ; and if the amount of the assessment be in excess, the award unpaid shall be canceled, and such excess only shall be a lien upon the property assessed, the rest of the award or assessment, as the case may be, being also canceled.

Proceedings for
grading streets,
&c.

126. SEC. 17. That any street or section of a street may be graded, flagged macadamized, paved, curbed, guttered or otherwise improved as hereinbefore provided, in the following manner, viz. : on the petition in writing to the board of commissioners by the owners of one-third of the land fronting on the street proposed to be improved, the board of commissioners shall by resolution direct the town clerk to advertise such application or petition and the notice hereinafter provided for, for at least two weeks, once in each week successively, in the official paper in the town, or if there be none, in one or more newspapers published in the county and circulating in the town, and to post copies of the said petition and notice in five public places in the town, designated by the board of commissioners, at least ten days prior to the time fixed for the hearing of objections to such improvement ; the clerk shall also publish and post as aforesaid with the petition a notice signed by him, stating that objections in writing to said proposed improvement shall be filed with him, and designating the time and place when and where the board of commissioners will meet to consider such objections, which time shall not be less than ten days after the date of the first publication of such petition and notice as aforesaid ; the clerk shall also serve like notice on the owners of property residing along the street or section of street so proposed to be improved, at least five days before the time designated in such notice ; *provided, however,* that no assessment shall be set aside or affected by reason of failure of said clerk to serve such notice ; and at or before the time named in such notice, the said clerk shall file in his office affidavits showing that such petition and notice have been published and posted as herein required ; at the time named in such notice, the board of commissioners shall proceed to consider such objections as have been presented, and if it appear that the owners of a majority of the land fronting on such proposed improvement have objected thereto, such improvement shall not be made, and all costs and expenses incurred in such proceedings shall be paid by the petitioners, to secure which the said board of commissioners shall in all cases require a deposit of twenty dollars before receiving any petition ; and in case the owners of a majority of the lands fronting on the proposed improvement, have not objected thereto, the board of commissioners may, in their discretion, determine not to make such improvement, in which case the deposit made by the petitioner or petitioners shall be returned to him or them ; and the defeat of any ordinance for such improvement, introduced before the board of commissioners, shall be conclusive to the determination of the board of commissioners not to make such improvement ; at any time after the time named in said notice for objections, the board of commissioners may proceed to pass an ordinance for such improvement, and such ordinance shall be valid if it describes in general language the improvement required to be made and done, and it shall not be necessary to state therein any other matter or thing connected with said improvement ; the town clerk shall publish and post up such ordinance in the same manner, and for the same time he is required to publish and post the petition for the improvement described therein, and he shall file in his office an affidavit showing that such ordinance has been duly published and posted ; at any time after the passage of such ordinance, the board of commissioners may require the clerk to advertise for proposals for doing the work of and furnishing the materials necessary for such improvement, in the official paper of the town, and in such other newspaper as shall be designated by the board of commissioners ; which proposals shall be presented in such form and manner and under such regulations as the board of commissioners shall prescribe ; upon the coming in of such proposals the board of commissioners may enter into contract with the lowest responsible bidders on the terms of their proposals ;

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provided, however, that the board of commissioners may reject all bids if they deem it for the interests of the town to do so, in which case they shall again advertise for proposals and proceed in all things as if no proposals had been offered; and the board of commissioners shall require the person or persons so entering into contract with the town to give bonds with ample freehold security for the due performance thereof.

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127. SEC. 18. That sewers may be built and constructed in any of the streets and avenues of the town on the petition of owners of one-third of the lands adjoining proposed route of the sewer; and the proceedings, after receiving such petition, shall be, in all respects, the same as are hereinbefore set forth for flagging and grading of streets, and all the provisions of this act relative to flagging and grading of streets shall be applicable to proceedings for the construction of sewers, except as modified in and by this section.

Proceedings for constructing sewers.

128. SEC. 19. That the board of commissioners may appoint an inspector over the work and materials on any sewer or street improvement, and may fix his compensation; the amount of such compensation shall be included in and form part of the cost of the improvement.

Inspector, appointment and compensation.

129. SEC. 20. That before the board of commissioners accept any work on any sewer or street improvement, or any final payment be made to the contractor, the board of commissioners shall publish as aforesaid a notice, stating when the board of commissioners shall meet to receive and consider objections in writing, the work and materials done and used in such improvement, and if any such objections shall appear to be well founded, the board of commissioners shall take such action thereon as in their judgment the interests of the town shall require.

Before work accepted, meeting to hear objections to be held.

130. SEC. 21. That where it shall be necessary, in the construction of any public sewer, to take or use private property for that purpose, the board of commissioners shall have power to provide in the ordinance for the building or constructing of any such sewer for the taking of any such property as is necessary; for that purpose the damages and awards to be made for lands so taken shall be determined and made by the commissioners of assessments, who shall report the same to the board of commissioners, and thereafter the proceedings shall be the same, in all respects, as are hereinbefore provided for the opening of streets.

Proceedings when necessary to take private property for construction of sewers.

131. SEC. 22. That the board of commissioners shall have power to issue improvement certificates, payable within one year or less, with interest, to the amount of seventy per centum of the work done upon any street, sewer, or other public improvement, when certified as correct by the engineer or other officer in charge of the work; and when the contract is fully completed, and the work fully accepted by the board of commissioners, they may issue a certificate for an additional twenty per centum of said work done, and in not less than three, nor more than six months after the date of the acceptance of the work, may issue a final certificate for the balance due, unless some error or defect in the work shall have appeared, in which case the certificate shall be withheld until the defect or error is rectified to the satisfaction of the board of commissioners.

Improvement certificates to be issued.

132. SEC. 23. [Amended by Sec. 139, *post.*]

133. SEC. 24. That no certiorari, injunction or other writ or process shall be allowed or granted to set aside any ordinance for any improvement after the contract therefor shall have been awarded by the board of commissioners; and no certiorari, injunction or other writ or process shall be allowed or granted to set aside any assessment made for any sewer or street improvement of any kind after thirty days shall have elapsed from the date of the confirmation of such assessment by the board of commissioners.

When certiorari or injunction to set aside ordinance shall not be allowed.

134. SEC. 25. That all moneys received for licenses, and all other moneys received, and not specifically appropriated, shall be paid into the incidental fund.

License moneys, &c., to be paid into incidental fund.

135. SEC. 26. That all taxes and all assessments heretofore or hereafter levied, assessed or made upon any lands, tenements or real estate, situate in such town, shall be and remain a lien thereon until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereon;

Taxes and assessments a lien.

and if the full amount of any such tax or assessment shall not be paid and satisfied within such time as shall be limited and appointed by the board of commissioners for the payment thereof, it shall and may be lawful for the board of commissioners to cause such lands, tenements or real estate to be sold at public auction for the shortest term for which any person will agree to take the same and pay such tax or assessment, or the balance due thereof remaining unpaid, with the interest thereon, and all costs, charges and expenses, and to execute under the common seal of said town, a declaration of such sale, to be signed by the chairman of the board of commissioners and the town clerk, and to deliver the same to the purchaser; and such purchaser, his executors, administrators or assigns shall, by virtue thereof, lawfully hold and enjoy the said lands, tenements or real estate for his or their own proper use against the owner or owners thereof, and all persons claiming under him or them, until said term shall be completed and ended; *provided*, the said board of commissioners shall first have caused such sale to be advertised for at least two months in its official paper, or if none then in at least one public newspaper published in the county and circulating in such town, and also by advertisement put up in at least five public places in such town, which advertisement shall describe such lands, tenements or real estate and specify the amount of assessment of tax; and the recitals of such declaration of sale shall be evidence of the assessment, advertising and sale; *and provided, also*, that the purchaser shall not be entitled to possession of lands so purchased until the period herein limited for redemption shall have expired; *and provided, also*, that the lands, tenements or real estate so sold may be redeemed by the owner, mortgagee, occupant or person interested therein, or by any other person, or in behalf of the owner, mortgagee or claimant of such lands, tenements or real estate, at any time within two years after the sale for either taxes or assessments, or for both, by paying to the treasurer of the town for the use of such purchaser the purchase-money, together with any other sum paid for tax or assessment which the said purchaser may have paid, chargeable on such lands, tenements or real estate, and which he is hereby authorized to do, with interest thereon at the rate of fifteen per centum per annum in addition thereto; and the certificate of the treasurer of the town stating the payments and showing what lands, tenements or real estate such payment is intended to redeem, shall be evidence of such redemption; any mortgagee shall have power to redeem at any time until the expiration of the six months' notice therein specified; no mortgagee whose mortgage shall have been duly recorded before sale for any tax or assessment, shall be affected by such sale until six months' notice, in writing, shall have been given to him, either personally, or if not to be found in such town, then such notice shall be deposited in the post-office in such town, directed to him at his last-known place of residence (or at the post-office nearest thereto), but nothing therein contained shall be so construed as to impair the lien created by such tax, assessment or sale; *and provided*, the same term of time for which any lands, tenements or real estate so sold as aforesaid, shall not commence, nor shall such purchaser, or those claiming under him, have a right of possession to said lands, tenements or real estate until the two years limited for the redemption of the same shall have expired; and the said purchaser, or those claiming under him, shall, at the expiration of the time limited in such declaration of sale, quit and surrender the said lands, tenements or real estate, in as good state and condition as when he entered thereon, natural wear and accidents excepted; *provided, also*, that such sale may be adjourned or postponed from time to time, or suspended, as the board of commissioners, or their committee appointed to attend such sale, may direct; *and provided*, that if at any sale of lands, tenements or real estate, for the assessment of taxes, the whole or any part thereof shall remain unsold for want of buyers, then it shall be lawful for such board of commissioners, or such committee to adjourn sale not less than thirty days, nor more than sixty days; twenty days' notice at least by publication for two weeks and posting shall be given as aforesaid of such adjourned sale, and if at such adjourned sale there shall be no purchasers for said lands, tenements or real estate, or any

Proceedings to
sell land.

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part thereof, then it shall be lawful for the treasurer of such town to purchase such lands, tenements or real estate for any term not exceeding one hundred years, for the benefit of the town, subject to the same redemption herein provided for; *provided, also*, that all money paid for the redemption of such lands, tenements or real estate as aforesaid, together with all taxes and assessments paid by any mortgagee or judgment creditor, shall be a lien upon such lands, tenements or real estate for the amount so paid, with interest at the rate of seven per centum per annum, and such lien shall have precedence over all other liens on such lands, tenements and real estate; *provided, further*, that a complete record of all taxes and assessments shall be kept in the town clerk's office, which record shall contain the time when such assessment and taxes were laid, the time when they were paid (and if the property has been sold therefor), the time of such sale and to whom sold, and if redeemed, when and by whom; it shall be the duty of the town clerk to enter in a book to be called "record of sales," a minute of all declarations of sales, and to give certificates of search in relation to liens to any person or persons applying for the same, and to cancel such declarations when the property for which they were given shall be redeemed, on the certificate of the town treasurer of such redemption, and to file such certificate in such clerk's office; it shall be the duty of the treasurer to make out two certificates of all property redeemed, one for the person redeeming and one to be filed in such clerk's office; it shall be lawful for the board of commissioners to sell, assign and transfer any declaration of sale or any term in lands purchased for the benefit of such town as aforesaid, or any portion of a term, for such price as the board of commissioners shall or may think proper.

Proviso.

Proviso.

136. SEC. 27. That the assessor shall complete his assessment and present his books to the board of commissioners for examination by the third Monday in September, annually, and the board shall complete their examination of the same by the first Monday in October; immediately thereafter the collector shall give notice as required by section ten of the tax act, and within thirty days thereafter the collector shall make the demand and give the notice as required by section eleven of the tax act, and the day fixed by him for the payment thereof shall not be later than December twentieth.

When assessment to be completed.

And collector to proceed to collect.

137. SEC. 28. That all general laws and statutes of this state heretofore passed relating to incorporated towns shall be and they are hereby made applicable to any town embraced under this act, except in so far as the same may be inconsistent with or repugnant to the provisions of this act; *provided*, that nothing in this act shall apply to, affect or include any street, road or highway, that is now or may hereafter be under the charge, direction, management or control of any county public road board in this state, whether created or organized under or by virtue of any general or special act of the legislature.

Former acts relating to incorporated towns made applicable to towns embraced under this act.

Proviso.

Supplement.

Approved May 8, 1894. P. L. 1894, p. 235.

138. SEC. 1. That section fifteen of the act entitled "An act enlarging and extending the powers of incorporated towns in this state, governed by boards of commissioners, and of certain officers thereof," approved April sixteenth, one thousand eight hundred and ninety-one [see Sec. 124 *ante*], be and the same is hereby amended so as to read as follows:

[That streets or sections of streets shall be laid out, opened, straightened, extended, widened or otherwise changed as to their boundaries in the following manner, and not otherwise: a petition, in writing, signed by ten or more freeholders, resident in the town and owning land in the vicinity of the improvement desired, shall be presented to the board of commissioners, setting forth accurately the improvement desired; and the petitioners shall deposit with the treasurer such sum of money as the board shall direct, being sufficient to cover the expense incurred in case such improvement shall not be ordered; if the board shall favor the petition, the same shall be referred to the commissioners of assessment, who shall employ a surveyor, not interested in such improvement, who shall there-

Proceedings to open streets or sections thereof, &c.

upon make a map of such improvement, showing the real estate to be taken therefor, and all the property which, in the judgment of the said commissioners of assessment, will be especially benefited thereby, designating each lot and parcel on said map by a number; said commissioners of assessment shall also ascertain, as far as practicable, the names of the owners of such real estate to be taken and property to be benefited, and the interest of each of the owners of real estate to be taken, and when such names or estate are not known they shall so report; they shall also appraise the value of the interest of each known owner of real estate to be taken and the damage to be done to such owners by taking the same; and where the estates in any plot of land are unknown, they shall appraise the value of or the damage done to the fee-simple; said commissioners of assessment shall also estimate all other expenses likely, in their judgment, to attend to completion of the improvement; said commissioners of assessment shall also estimate the amount likely to be realized from the sale of any buildings or parts of buildings required to be taken on account of such improvement, and shall also determine the probable net cost of making the improvement; this probable net cost they shall then assess upon the land to be especially benefited, in proportion to the benefit to be received; thereupon they shall, under their hands, make a report of the facts ascertained and of the appraisements, estimates, determinations and assessments made by them concerning such improvement, and shall file such report and their map with the clerk of the town; thereupon the said clerk shall cause a notice of the filing of the said map and report to be printed in the official newspaper of the town, or, if there be none, in a newspaper published in the county and circulating in the town, for the period of two weeks, which notice shall contain a general description of the improvement intended, of the land to be taken, and of the land to be assessed therefor, and shall state the time and place when and where the board of commissioners will meet to hear and consider any objections to said report or to the improvement, which may be presented in writing; said clerk shall also, within said period, cause notices to the same effect to be posted at points not over three hundred feet apart along the whole line of said improvement, the time appointed for hearing such objections being not less than ten days after the expiration of such period of two weeks, and shall also within the same period, serve a copy of such notice upon the resident owners of real estate affected thereby; but the omission of the clerk to serve such notice shall not invalidate any such proceedings; and all objections at such time and place presented in writing, the said board of commissioners shall consider and adjudicate upon, and the awards of assessments made in such report may be corrected accordingly, a copy of which corrections, signed by the chairman of the board of commissioners, shall be filed with the said clerk within twenty days after the expiration of said period of two weeks; if such board of commissioners shall then determine to make such improvement, notwithstanding any objections to the same, the said board shall confirm such awards, with the corrections, if any, and pass an ordinance ordering such improvement to be made and completed in such manner as the board of commissioners may direct; *provided*, the said board of commissioners shall not proceed to make such improvement if the owners of the property subject to more than one-half of the assessment for the improvement shall remonstrate against the same being made; the board of commissioners shall also pass a resolution directing the several sums awarded to be paid to the persons to whom the awards are made for real estate taken and damages sustained in making such improvement, and upon the passage of such resolution, the fee-simple of such real estate to be taken, shall be vested in the town; *provided*, that where the commissioners of assessment shall have reported the names or estates of the owners of any plot as unknown, the said resolution shall direct the sum of the award on account of such plot to be paid to the owners thereof when and as their interests may appear; and any such owner or person interested in such lands may, by bill in chancery, according to the practice of that court, have the said sum dis-

Proviso.

Proviso.

tributed, or in whole or in part paid over to him, as law and justice may require; after the completion of such improvement, or, if the board of town commissioners shall determine not to carry such improvement to completion for the time being, then after notice of such their determination, such commissioners of assessment shall ascertain and determine the actual net cost thereof, if completed, and if not completed, then so far as completed, and shall assess, as hereinafter provided, such actual net cost upon the lands specially benefited in proportion to the benefit received.]

139. SEC. 2. That section twenty-three of said act [see Sec. 132, *ante*] be and the same is hereby amended so as to read as follows:

[That the cost and expense of laying out, widening, opening or extending any street or part of street, and after the completion thereof the whole cost of any street, sewer or other public improvement shall be ascertained and determined by the commissioners of assessment, and such cost and expense shall, so far as the same can be, be assessed upon the lands and real estate specially benefited by the improvement in proportion to the benefit received; and no lot or parcel of land shall be assessed more than it is so specially benefited; and if the total cost of any improvement shall exceed the aggregate assessable special benefits, the excess shall be borne and paid by the town at large; the commissioners of assessment shall file their report with the town clerk, which shall be accompanied by a map showing what lots and parcels of land are specially benefited by the improvement, the amount assessed as special benefits upon each lot or parcel of land, and the names of the owners of the several lots and parcels of land assessed, so far as the commissioners of assessment can ascertain the same, and the amount, if any, of the excess of the cost of the improvement over the aggregate assessable special benefits; but no assessment shall be deemed defective by reason of any mistake in the names of the owners of lands assessed, or omitting the said names of any of them; the clerk shall publish and post notices in the same way and manner hereinbefore prescribed for publishing and posting the petition for the improvement, and its accompanying notice, stating that the map and the report of the commissioners of assessment have been filed in his office, and that the board of commissioners will consider any objections to such report, map and assessment, presented in writing on or before a day named in such notice, to be fixed by the board of commissioners, which day shall be at least ten days after the first publication of such notices; after considering such report, map and assessment, and such objections as may have been presented against the same, the said board of commissioners may confirm such report, map and assessment, or, if deemed necessary, may return the same to the commissioners of assessment for revision and correction, who shall return the same corrected and revised, without unnecessary delay; and thereafter the board of commissioners may, without further notice, confirm the said report, assessment and map.]

140. SEC. 3. That where, in the act incorporating any incorporated town in this state governed by a board of commissioners, or in any supplement thereto, any provision may be in conflict with any provision contained in this act, or in the act to which this is a supplement, such provision contained in this act, or in said act to which this is a supplement, shall be construed as expressly repealing any conflicting provision contained in any such act of incorporation or any supplement thereto.

141. SEC. 4. That in all cases in which imprisonment in a county jail is mentioned as a mode of punishment, in any section of the act to which this is a supplement, such imprisonment may hereafter be in the town lock-up or town prison, or the county jail, in the discretion of the police justice.

142. SEC. 5. That if in any case arising under the act to which this is a supplement, or any supplement thereto, where lands have been or shall be condemned for any purpose, it shall appear that such lands are subject to any mortgage or other lien or incumbrance whatsoever, then the town treasurer, or other officer charged with the payment of damages awarded for such lands, shall deposit the sum so awarded with the clerk of the county in which such lands are situate, who shall hold the same subject

Cost of public improvement shall be assessed on land benefited, &c.

Proceedings to hear objections, &c.

Commissioners may confirm report, &c.

Repealer.

Commitments may be to town lock-up.

Proceedings relative to mortgaged lands.

only to the order of the chancellor or any circuit judge sitting in equity, and from and after such deposit, the fee-simple of such lands shall vest in the town, free and clear of any claim of any owner thereof and of the lien of any mortgage or other lien or incumbrance.

Payment of damages shall extinguish dower estate.

143. SEC. 6. That the payment of damages to the owner or owners of the fee-simple in any lands, in any proceedings in condemnation, shall be construed as extinguishing any curtesy or dower estate therein previously existing.

Collector shall make return of unpaid assessments.

144. SEC. 7. That it shall be the duty of the town collector of each town, on or before the first day of February in each year, to make return in writing to the clerk of the county in which such town is situate, of all unpaid taxes and assessments, assessed the preceding year on real estate situate in his town, setting forth against whom assessed, the date, description of the property, the amount of tax and assessment thereon, if any assessment there shall be, to which he shall affix an oath or affirmation in writing to the effect that the same is just, true, full and complete in every particular, as shown by his tax duplicate, and the book wherein assessments are recorded, if any, and in case the said collector shall neglect or refuse to make such return, he shall forfeit and pay to the board of commissioners of such town the sum of one hundred dollars to be recovered in an action on contract in any court of competent jurisdiction, either in the corporate name of such board, or in the name of the town treasurer.

Penalty for refusal to make return.

County clerk shall record returns.

145. SEC. 8. That the county clerk, upon receipt of such returns, shall record the same at length in the same books that are provided for the recording of other taxes against real estate, and the clerk shall receive for such service the sum of five cents for each name in such return, to be paid by the town returning the same.

If return is not made, lien shall close as against purchaser or mortgagee.

146. SEC. 9. That in case such tax return shall not have been made at the time herein provided, or in case a name or names shall have been omitted from such return, then in that case such tax shall cease to be a lien upon such real estate as against a purchaser or mortgagee in good faith.

Delinquent shall pay fees, costs, &c.

147. SEC. 10. That the fees, charges and expenses incurred for services rendered under sections seven, eight and nine of this act shall be included in the amount to be paid by the delinquent, and that upon the payment of such taxes, costs and expenses, the collector who shall receive the same shall give a receipt for the amount paid in satisfaction thereof to the person paying the same, which receipt shall be sufficient evidence of the payment of such tax, and that upon presentation thereof, the clerk of the county shall satisfy such tax record in the same manner as the record of mortgages is now by law satisfied, and shall file such receipt in his office.

When paid, clerk shall cancel record.

148. SEC. 11. That any tax now due on any lands, tenements, hereditaments or real estate in any town of this state may be collected under this act in the manner prescribed herein.

Past-due taxes may be collected under this act.

149. SEC. 12. That whenever ten or more persons, being freeholders, shall think any public road or street or any part of any public road or street in any such town which hath been or shall be laid out unnecessary, it shall be lawful for such persons to make application in writing to the board of town commissioners of such town, having given previous notice for at least ten days of such application and of the meeting at which such application will be made, by advertisement under their hands and set up in at least three of the most public places in such town; such board of commissioners, upon receiving proof of the proper setting up of such advertisements, shall thereupon consider the same, and if a majority of such commissioners shall favor such application, the same shall be referred to the commissioners of assessment, who shall report thereon in writing within thirty days thereafter whether or not in their judgment such application should be granted, stating the reasons why such application should or should not be granted; upon the coming in of such report, if a majority of such board of commissioners shall still favor such application, they shall appoint a meeting at which they will consider any and all objections to the granting of such application that may be presented to them in writing, and shall cause at least ten days' notice of such meeting:

Proceedings to vacate unnecessary roads or streets.

to be served upon all owners of lands in front of which such road or street or part of road or street proposed to be vacated shall run, or upon the occupant or occupants of such lands; and if any of such lands shall be unoccupied and the owner or owners thereof not resident in such town, then such notice may be mailed to the post-office address of any and every such owner, if the same can be ascertained, ten days before such meeting; if the post-office address of any such owner shall be unknown then such notice shall be published in a newspaper published in such town for the space of two weeks next prior to such meeting; copies of such ten days' notice shall be put up along the line of such road or street or part thereof proposed to be vacated at points not over three hundred feet apart; after giving opportunity for the hearing of objections to such proposed vacation, if two-thirds of the members of such board of town commissioners favor the same, they shall pass an ordinance to that effect, and upon the taking effect of such ordinance such roads or street or part of road or street shall thereupon become vacated and cease to be a public highway.

150. SEC. 13. That in addition to the powers conferred upon such boards of town commissioners by the fifth section of the act to which this is a supplement, they shall have power to pass, adopt, alter, modify and repeal ordinances for the following purposes: to prescribe and define the duties of fire commissioners and to prescribe and limit their terms to a less term than five years; to provide for and regulate the sprinkling of the streets of the town and the collection of the expense thereof of landowners in front of whose lands the same is done, as other taxes are collected, or payment of the same out of the town treasury, as they may determine; to provide for and regulate the trimming of any and all trees whose branches may overhang any street or alley of the town, the trimming or cutting down of any tree or trees that may stand within the limits of any street or alley in the town and the cutting down of any tree or trees standing on private property outside of the limits of any street or alley, which may overhang or in any way be deemed dangerous to passers-by; but the enumeration of powers in this section shall not be construed as repealing or in anywise limiting the powers heretofore conferred upon such boards of commissioners, by any act whatsoever, unless the same shall be in direct conflict herewith.

Town commissioners may pass ordinances for certain purposes.

151. SEC. 14. That any proceedings heretofore or hereafter instituted under the provisions of section fifteen of the act to which this is a supplement, at any time prior to the passage of the resolution mentioned in said section, and any proceedings instituted under the provisions of section seventeen of said act, at any time prior to the entering into of any contract under said section in relation thereto, may be recalled, discontinued, canceled and holden for naught; upon the passage of an ordinance repealing the ordinance ordering the improvement asked for in such proceedings, if one shall have been passed, or if no ordinance shall have been passed, then upon the passage of a resolution declaring that such proceeding shall from thenceforth be recalled, discontinued, canceled and holden for naught.

Proceedings under certain sections of original act may be discontinued and canceled.

An act providing for the formation, establishment and government of towns.

Approved March 7, 1895.

P. L. 1895, p. 218.

152. SEC. 1. That the inhabitants of any town, village, borough or township which has, or hereafter may have, a population exceeding five thousand inhabitants, may become a body politic and corporate in fact and in law by the name and title of "the town of (specifying the name borne by such town, borough or township), in the county of (specifying the county in which the same is situated)," whenever, at any special election called for that purpose, or at any town or charter meeting or election, at which the question of incorporating under this act is submitted, as hereinafter provided, it shall be so decided by a majority of the voters thereof voting at any such election.

Question of incorporation shall be decided at a special election.

Governing body of town, &c., shall provide for the election.

153. SEC. 2. That the council, township committee or other governing body of any such town, borough or township, upon the petition, in writing, of at least fifty resident freeholders, may, by the votes of the majority of all the members thereof, adopt an ordinance for the holding of a special election in such town, borough or township for the purpose of deciding whether such town, borough or township shall become incorporated as a town under the provisions of this act, which ordinance shall prescribe the time and place or places of holding such special election and such other regulations respecting the same as may be deemed necessary and proper ; *provided, however,* that instead of providing for a special election, such ordinance may provide for submitting the question of incorporating as a town under this act to the voters of such town, borough or township at the town or charter meeting or election to be held next thereafter.

Proviso.

Proceedings for special election.

154. SEC. 3. That if a special election be called, notice of the same shall be given by advertisement published in the official newspaper or newspapers (if any) of such town, borough or township, and if there be none, in at least two newspapers published in the county and circulating in such town, borough or township, at least once in each week for two weeks successively, and by printed notices posted in at least one hundred conspicuous places therein, at least fifteen days next preceding the time appointed for such special election, which advertisement and notices shall specify and set forth the time, place or places and the object and purpose of holding such special election ; and in case said ordinance provides for submitting the question of incorporating as a town under this act at a town or charter meeting or election, notice thereof shall be given by advertisement published in the official newspaper or newspapers of such town, borough or township (if any), and if there be none, in two newspapers, published in the county and circulating in such town, borough or township for two weeks successively, next preceding the day appointed by law for holding such election, at least once in each week, and by printed notices posted in at least one hundred conspicuous places therein at least fifteen days prior to the day appointed by law for holding such election, which advertisement and notices shall set forth that the question of incorporating as a town under the provisions of this act will be submitted at the next ensuing town or charter meeting or election.

How the election shall be conducted.

155. SEC. 4. That any special election held under the provisions of this act shall be by ballot and shall be held and conducted under the general acts respecting elections, and the votes shall be canvassed and counted in the manner provided by law for canvassing and counting votes at town or local elections held in such town, borough or township ; the ballots shall contain the words "for incorporation as a town under the act entitled 'An act providing for the formation and government of towns,'" or "against incorporation as a town under the act entitled 'An act providing for the formation and government of towns ;'" and in case the question of incorporation as a town under this act shall be submitted at a town or charter meeting or election, the words "for incorporation as a town under the act entitled 'An act providing for the formation and government of towns,'" shall be printed on each ballot beneath the list of candidates thereon ; if said words or proposition be marked off or defaced upon the ballot, it shall be counted as a vote against the same ; if not marked off or defaced, the ballot shall be counted as a vote in favor thereof ; if a majority of the votes so cast at any special town or charter meeting or election shall be in favor of incorporation as a town under this act, then within three days after the result of the election shall have been declared, a certificate of the result of such election, signed by the chairman of the council, committee or governing body of such town, borough or township, and attested by the clerk thereof, together with certified copies of the petition, ordinance and statement of the board of canvassers or election officers who canvassed the vote, and proof by affidavits that due notice of such election was given, shall be filed with the secretary of state, and from and after filing the same such town, borough or township shall be and it is hereby declared to be a body politic and corporate in fact.

and in law by the name and title aforesaid, and by said name and title shall have perpetual succession, sue and be sued, prosecute and defend in all courts in this state; have a common seal and alter the same at pleasure, and purchase, hold and convey real and personal property for the use and benefit of the town.

156. SEC. 5. That it shall be the duty of the council, township committee, or other governing body of such town, borough or township, which shall have voted as aforesaid for incorporation as a town under this act, to divide such town into not less than three wards; each shall consist of contiguous territory, and each shall contain as nearly as possible an equal number of inhabitants; *provided, however,* that such division into wards shall be made at least one month before the first annual town election held under this act; *and provided further,* that where any town, borough or township shall have been divided into three or more wards before adopting this act, such division shall continue, and such existing wards shall constitute the wards of the town as formed and incorporated under this act until changed by the council, and said council may change such division and create new or different wards at any time within one year after the declaration of the result of any official state or United States census.

Governing body to divide town into wards.

Proviso.

Proviso.

157. SEC. 6. That the officers of any town, borough or township, which has voted as aforesaid for incorporation as a town under this act, who shall hold office at the time of filing the aforesaid certificate with the secretary of state, shall continue to hold their respective offices until the first day of May next succeeding the first annual town election held under this act, and shall in all things be subject to the provisions of this act in the same way as if they had been elected hereunder; and no surety of any such officer shall be discharged from liability on account of any change made in the duties of such officer by this act, unless, within five days after this act becomes operative in such town, he shall, in writing, notify the council of his intention to withdraw from his suretyship, in which case he shall be discharged from liability from the time this act becomes operative in such town; and the council may require such officer to furnish new or additional sureties in place of the ones withdrawing as aforesaid; and if he fails or neglects so to do, the council may declare his office vacant, and may fill such vacancy in the manner hereinafter prescribed for the filling of vacancies.

Officers previously elected shall hold and act.

Sureties of shall be held liable.

When sureties may be discharged.

158. SEC. 7. That the council or governing body of the town may fill by appointment all such offices herein provided for which did not exist in the town, borough or township of which it is the successor; and all such appointments to elective offices shall hold only until the first day of May next succeeding the first town election held under the provisions of this act, and all other such appointments shall hold only until the first day of June next thereafter.

Officers not previously provided for may be appointed.

159. SEC. 8. That any town which may be formed or incorporated under the provisions of this act shall take, hold, possess and enjoy and become absolutely vested with all the rights and property of the town, borough or township of which it is the successor, and shall be responsible for and liable to all contracts, debts and obligations of such town, borough or township.

Town shall succeed to the rights, property and liabilities of the municipality of which it is the successor.

160. SEC. 9. That the town and ward officers of the town shall be a town council, consisting of two councilmen from each ward and one councilman-at-large, a town clerk, a town collector, a town treasurer, a town attorney, an assessor, a recorder, a board of commissioners of appeal, consisting of one member from each ward, an overseer of the poor, one or more town surveyors, one or more poundkeepers, a board of education, consisting of three members from each ward, three commissioners of assessment, a chief of police and a chief engineer of the fire department, three constables in each ward and such number of justices of the peace as the town may be entitled to under the constitution and laws of this state, and for the purpose of electing justices of the peace, each town shall be considered a township, and in counties in which chosen freeholders are elected by townships and wards each ward of the town shall elect one chosen freeholder.

Town and ward officers specified.

Town officials,
how elected or
appointed, &c.

161. SEC. 10. That the councilmen from each ward and the councilman-at-large, town clerk, town collector, assessor, constables and members of the board of education shall be elected at an annual town election; the town treasurer, town attorney, recorder, commissioners of appeal, overseer of the poor, chief of police, town surveyors, and the commissioners of assessment and poundkeepers shall be appointed by the council in the manner and for the terms hereinafter provided; the chief of the fire department shall be elected in the manner and for the term hereinafter provided, by the active members of the fire department; the term of office of any officer elected or appointed, not herein otherwise provided for, may be fixed by the council by ordinance; the council may in like manner appoint such other subordinate officers as may be deemed necessary, and fix their terms of office and compensation and define their duties.

162. SEC. 11. [Amended by Sec. 238, *post.*]

A plurality
shall elect.

163. SEC. 12. That the person or persons receiving the greatest number of votes of those given in the town for any town office and of those given in each ward, respectively, for any office in or from the ward, shall be declared to be elected.

Board of canvassers,
how composed
and proceedings
conducted.

164. SEC. 13. That the board of town canvassers shall consist of one judge or inspector of election from each election district in the town, who shall be appointed for that purpose by the other election officers (excluding the clerk) of such district, a majority of the board shall constitute a quorum, and the town clerk shall be clerk of said board; the board shall meet on the Friday next after such election, at three o'clock in the afternoon, at the town hall, and shall choose one of their number to be chairman thereof; if the town clerk shall fail to attend, the board may appoint one of their own number to be clerk thereof; thereupon the members of the board shall produce the statements which shall have been delivered to them as aforesaid, and lay the same before the board, and from such statement the board shall proceed to ascertain the votes given at such election for the several officers voted for thereat; *provided, however,* that if for any reason, any member of such board shall fail to produce such statement, that then, on the request of the board, the town clerk shall produce and lay before the board the statement filed with him, and the same may be used with the like effect as if it had been produced by the member so failing to deliver his statement.

Proviso.

Shall declare
result of election
and certify state-
ment, &c.

165. SEC. 14. That the said board of canvassers shall make a written statement of the number of votes given for the several officers to be elected for said town and the several wards thereof, the names of the persons for whom such votes were given and the number of votes given for each; that upon such statement said board shall proceed to determine and declare what person or persons have received the greatest number of votes for each of the offices mentioned in such statement; the statement and final declarations of the board shall be certified to by the presiding officer and clerk, and shall be filed with the town clerk and be by him recorded in a book to be kept for that purpose; and within two days after such canvass of the votes, the town clerk shall deliver to every person elected to any town or ward office a certificate thereof, under the seal of the town.

Clerk shall
record statement.

In cases of tie
vote, council
shall elect.

166. SEC. 15. That if at any such election there shall be a failure to fill any office, except that of councilman or member of the board of education, by reason of two or more persons having received an equal number of votes therefor, the town council then in office shall by ballot elect one of the persons so receiving an equal number of votes to fill such office until the next town election, when the unexpired portion of the term (if any) shall be filled by the electors of the town; and if there shall be a failure for like cause to fill the office of councilman or member of the board of education, a new election for such officer or officers shall be immediately ordered by the town council.

In case of failure,
new election
shall be ordered.

Terms for which
councilmen shall
be elected.

167. SEC. 16. That except as herein otherwise provided, at the first town election held under this act one member of the council from each ward shall be elected for one year, and one member for two years; and one member of the board of education shall be elected for one year, and

one member for two years, and one member for three years; and the electors voting at such election shall designate on their ballots the terms for which the several candidates for said offices shall be elected; and thereafter, annually, a member of the council shall be chosen from each ward for two years, and a member of the board of education for three years.

168. SEC. 17. That no person shall be eligible to any office under this act unless he shall have resided in the town for the period of at least one year, and no person shall be eligible to any ward office unless he shall be an actual resident of the ward; and no person shall be eligible to any office unless he is a citizen of the United States; *provided, however,* that the town attorney and the town surveyors need not be residents of the town; and when any person except town attorney and town surveyors, elected or appointed to any town or ward office, shall remove from the town or ward his office shall thereby become vacant.

Qualifications of officers.

Proviso.

169. SEC. 18. That in case a vacancy occurs by reason of the death, resignation, inability, disqualification, removal or refusal to serve of or by any town or ward officer, elected as aforesaid, it shall be lawful for the town council to fill such vacancy by the appointment of a suitable and qualified elector to hold until his successor shall have been duly elected and qualified, and the unexpired portion of the term (if any remain) shall be filled at the town election to be held next after such appointment; *provided, however,* that in case any such vacancy shall occur in the board of education, said board of education may fill such vacancy by appointment until the next town election, when the vacancy shall be filled by the electors of the town; *provided,* that if at any town election there shall be a vacancy in any office to be filled and at the same time an election for a full term of such office, the term for which each person shall be voted for shall be designated on each ballot cast therefor.

Council may fill vacancies by appointment.

Proviso.

Proviso.

170. SEC. 19. That in case any such vacancy as aforesaid shall occur in any office which is filled by appointment or election by the town council, the said town council shall have power to fill such vacancy by the appointment of a suitable person to hold for the unexpired portion of the term of such office.

Vacancy in any office filled by appointment or election by council may be filled temporarily.

171. SEC. 20. That every person elected or appointed under this act to any office, shall, within ten days after such election or appointment, take and subscribe before an officer qualified to administer oaths, an oath or affirmation, faithfully and impartially to execute the duties of his office according to the best of his ability and understanding, which oath or affirmation shall be filed in the town clerk's office, and if any person so elected or appointed shall fail so to qualify, then his office shall be deemed vacant, and may be filled in the manner hereinbefore provided.

Officers shall make and file oath.

Failure to qualify shall vacate the office.

172. SEC. 21. That the town clerk, town treasurer, town collector and such other officers as the town council may require, before they enter on the duties of their office and within such time as the board of council may by ordinance prescribe, shall give bonds to the town in its corporate name in such sums and with such sureties as the board of council shall require and approve for the faithful performance of their duties, which bonds, when so given, shall bind the obligors therein named until the successors to the officers giving the same shall be actually inducted into office, and if any officer shall fail or neglect to give bonds in the sum or with the sureties or within the time required by such ordinance, the council may declare such office vacant, and such vacancy shall be filled in the manner hereinbefore provided.

Certain officers shall give bonds.

Failing to do so, office may be declared vacant.

173. SEC. 22. That the official terms of the several officers who shall be elected under this act shall commence on the first day of May next succeeding their election; and the term of any officer who shall be appointed by virtue of this act shall commence on the first day of June next succeeding his appointment, except in cases otherwise provided for in this act, and every officer shall hold his office during his official term and until his successor shall have been duly elected or appointed and shall have duly qualified.

Commencement of official terms.

Retiring officers shall surrender books, records, &c.

174. SEC. 23. That it shall be the duty of every officer in said town, within ten days after the expiration of his term of office or his removal therefrom, to deliver to his successor in office, or to such person as the town council may appoint, all books, records, papers, vouchers and property of every kind in his possession or under his control, belonging to said town or appertaining to such office.

Holding of more than one office under this act prohibited.

175. SEC. 24. That no officer of the town elected or appointed under this act, shall hold any other office of profit or trust under this act, and any such officer who shall accept any other office under this act, shall be deemed to thereby vacate the office to which he was first elected or appointed.

Council shall fix salaries and compensation.

176. SEC. 25. That the salaries and compensation to be paid to the town clerk, the town collector, the town treasurer, the town attorney, the recorder, the assessor, the chief of police and the members of the police force, the chief of the fire department, the overseer of the poor, the town surveyors, poundkeepers, commissioners of appeal, commissioners of assessment and members of the town council, shall be fixed by ordinance of the town council; and the salary or compensation of any officer which has been fixed as aforesaid shall not be increased or diminished during his term of office, and all fees paid to any of said officers for any services required of him by this act, or by any ordinance or resolution of the town council, shall immediately after the receipt thereof be paid by such officer to the town treasurer for the use of the town, unless herein otherwise specially provided; *provided, however,* that such salaries shall not exceed the following sums per year, viz.: town clerk, one thousand dollars; members of the town council, five hundred dollars each; town collector, two thousand dollars; town treasurer, one thousand dollars; recorder, six hundred dollars; assessor, one thousand dollars.

Proviso.

177. SEC. 26. That all the officers of the town shall be governed by such general ordinances as the town council may from time to time adopt, not inconsistent with the provisions of this act and the laws of this state, and every officer may be removed from office for cause by a two-thirds vote of all the members of the council, but no such removal shall take place until the person sought to be removed shall have had an opportunity of being heard in his own defense; but the provisions of this section shall not apply to any member or officer of the board of education.

Council shall prescribe duties of officers, and may remove them for cause.

Term and duties of town clerk.

178. SEC. 27. That the town clerk shall hold office for the term of two years, and shall, in addition to the duties required of him by this act or any other law of this state, have charge of all the records, books and documents of the town, except when the town council shall otherwise direct; he shall keep a record of the proceedings of the council, he shall engross all ordinances in a book to be provided for that purpose, which book shall be deemed a public record of such ordinances, and each ordinance shall be signed in said book by the chairman of the council and said clerk; copies of all papers duly filed in the office of the town clerk and transcripts thereof and of the records and proceedings of the board of council and copies of the ordinances of said town, certified by the said clerk under the corporate seal of the town, shall be evidence in all courts and places; the town clerk shall pay over to the town treasurer, without delay, all moneys received by or paid to him for the use of the town; his office shall be at the town hall, and he shall keep the same open for the transaction of public business during such hours as the council shall by ordinance prescribe; it shall be lawful for him to charge and receive for his own use, at the rate of ten cents per folio, for copies of all official papers and records and for the return to any writ of certiorari made by him.

Term and duties of collector.

179. SEC. 28. That the town collector shall hold office for the term of two years, and it shall be his duty to receive and collect all moneys due to the town, whether for taxes, assessments, arrears of taxes or otherwise; the town council shall provide him with an office at the town hall, which he shall attend at such times as shall be designated by the council by ordinance; he shall enter, in suitable books to be provided for that purpose, by the council, any sums received by him for any purpose, and he

shall specify in such entry the names of the persons by whom or on whose account the payments are made, the dates of payment and the purpose for which payment is made, and if any part of any payment is for interest or penalties, the amount thereof shall be separately stated; he shall at least once each week pay over all moneys collected by him for the town to the town treasurer, and shall take his receipt therefor; he shall furnish the council at least once in each week, and oftener, if required, a statement of all moneys received and collected by him since his last preceding report was made, and he shall perform all such other duties appertaining to the said office as the council shall by ordinance prescribe; he shall make a full report annually on the first day of April, to the council, of all moneys received and disbursed by him, and he shall, whenever required, lay before the council for examination and audit all books, papers and vouchers appertaining to his office.

180. SEC. 29. That the town treasurer shall hold office for two years; he shall receive, safely keep and disburse, under the direction of the council, all moneys belonging to or under the control of the town; he shall keep an accurate account of all receipts and payments in such manner as the council shall direct; no money shall be paid out of the treasury except on warrant signed by the chairman of the council and attested by the town clerk, excepting payments of state and county taxes, which the said treasurer is hereby required to make annually out of the first moneys received by him from the town collector and moneys paid into the town treasury for the redemption of property sold for taxes and assessments; and no warrant shall be drawn on the treasurer except in pursuance of an order or resolution of the council passed at a stated meeting and entered in their minutes; all such warrants shall be numbered and made payable to the order of the person entitled to receive the same, and shall specify for what purpose the amount therein mentioned is directed to be paid and the appropriation against which it is to be charged; it shall be the duty of the clerk before he delivers any warrant so drawn to enter into the margin of a book to be called "warrant-book," opposite to said warrant, the number, date, amount of the same, the appropriation to which it is charged, the date of the resolution or order authorizing it to be drawn, the purpose for which ordered and the name of the person or persons to whose order it is made payable, and to take his or their receipt in said book at the end of said marginal entry for said warrant; *provided, however,* that nothing in this section contained shall apply to the disbursement and payment of moneys raised or received for public school purposes.

Term and duties of treasurer.

181. SEC. 30. That the town treasurer shall receive, safely keep and disburse all moneys raised and received for public school purposes; he shall keep separate accounts thereof and pay the same out only on warrant signed by the chairman and clerk of the board of education, and no warrant for any such purpose shall be drawn on the treasurer except in pursuance of an order or resolution passed at a stated meeting and entered in their minutes, and the provisions of the last preceding section of this act relative to warrants on the treasurer by the town council shall apply to the warrants of the board of education; and the said treasurer shall do and perform all acts and duties enjoined upon township collectors by the school laws of the state.

Treasurer shall receive and disburse school moneys.

182. SEC. 31. That the treasurer, at least once every month, and oftener if required, shall furnish the council with a statement of all moneys received and expended by him (including school moneys) since his last report, and he shall annually, on the first day of April, make to the council a full report of all his receipts and expenditures, and he shall, whenever required, lay before the council, for examination and audit, all books, papers and vouchers appertaining to his office.

Proviso.

Treasurer shall furnish monthly statement, and annual report.

183. SEC. 32. That the recorder shall hold office for two years, and shall have jurisdiction and is hereby empowered, on oath, affirmation or affidavit made according to law, that any person or persons has or have been guilty of a violation of any of the ordinances of the town, to issue process either in the nature of a summons or warrant as to him may

Term and duties of recorder.

seem most advisable, against the person or persons so violating such ordinance, which process shall, when of the nature of a warrant, be returnable forthwith, and when in the nature of a summons be returnable in not less than three or more than five days; that such process shall state what ordinance the defendant or defendants named therein has or have violated, and in what manner the same has been violated, and then on return of such process, or at the time to which the recorder shall have adjourned the same, the said recorder shall proceed to hear testimony and to determine and give judgment in the matter without the filing of any pleadings, and the recorder shall, if judgment be rendered for the plaintiffs forthwith issue execution against the goods and chattels and against the body of the defendant or defendants; and the said recorder shall be further empowered to inflict fines not exceeding the sum of twenty dollars on such persons as shall be convicted before him of vagrancy, disorderly conduct, breach of the peace, or, in his discretion, to order such persons to be committed to the county jail or workhouse for any period not exceeding thirty days; *provided*, that in all cases when the fine or penalty shall exceed ten dollars or where the punishment shall be imprisonment, there may be a trial by jury, to be conducted as in cases now triable in courts for the trial of small causes; the recorder shall also have power to cause any person or persons who shall be found guilty of a violation of the ordinances of the town, and who may refuse or neglect to pay any penalty imposed, to be committed to the county jail for any period not exceeding thirty days; and the recorder shall be present at the station-house or other place provided for him by the town council, at such hours every day as the council shall designate; and the recorder shall have the same powers in criminal matters within the territorial limits of the town as are possessed and exercised by justices of the peace of this state.

Councilmen and policemen shall have power to make arrests on witnessing any violation of ordinance, &c.

Proceedings in cases of appeal from judgment for violation of ordinances.

Officers who may serve process and how return shall be made.

Hearing may be adjourned and bail accepted.

184. SEC. 33. That any member of the council, during his term of office, and any policeman of said town, shall have the power, on witnessing any breach of the peace or any violation of a town ordinance, to forthwith arrest and take into custody, without warrant, the offender or offenders, and to take said offender or offenders before the recorder of the town for a hearing.

185. SEC. 34. That every conviction for violating a town ordinance had before the recorder, either with or without a jury trial, may be reviewed by appeal to the court of common pleas of the county in the same manner and upon the same terms as appeals are or may be taken from courts for the trial of small causes, and in case the judgment appealed from shall be imprisonment the said recorder or any judge of the court of common pleas may admit to bail the party appealing during the pendency of his appeal; but no judgment for the violation of any ordinance shall be reversed for any imperfection, omission, defect in or lack of form, nor for any error except such as shall or may have prejudiced the defendant in maintaining his defense upon the merits.

186. SEC. 35. That the officers empowered to serve process issued by the recorder shall be, besides the constables elected or appointed within the town, the policemen of the town, and that said process shall be returned in the same manner, so far as circumstances may permit, as warrants in courts for the trial of small causes are returned, and the defendant or defendants named therein shall, if the recorder sees fit to adjourn the hearing of the charge made and so orders, enter into recognizance, as near as may be, in the manner directed in the courts for the trial of small causes, in the amount of the penalty named in the process or in any proceedings brought for the recovery of the same, with such surety as may be approved by the recorder, unto the town, by its corporate name, for his or their appearance on the day to which said hearing may be adjourned, and in default of such appearance the said recognizance may be prosecuted and collected in the same manner as the same might have been if the said recognizance had been taken in a proceeding in courts for the trial of small causes.

- 187. SEC. 36.** That the councilman-at-large, assessor and overseer of the poor shall each hold office for the term of two years, and the said assessor and overseer shall perform all the duties required of such officers by law in the several townships of this state and the ordinances of the town. Terms and duties of other officers.
- 188. SEC. 37.** That the town attorney shall be appointed by the council ; he shall hold his office for the term of one year, and shall perform such duties as the council shall by ordinance prescribe. Town attorney, term and duties.
- 189. SEC. 38.** That the town surveyors shall be designated from time to time by the council, and they shall give bonds in such penalty and upon such condition, and shall receive such compensation for the service they may render as the council shall by ordinance prescribe. Town surveyors, how appointed, &c.
- 190. SEC. 39.** That the poundkeepers shall be appointed by the council, and shall hold their office for such term, and shall perform such duties in addition to the duties imposed upon them by any law of this state, as the council may by ordinance prescribe. Poundkeepers, how appointed, &c.
- 191. SEC. 40.** That the members of the board of commissioners of appeals shall be appointed by the council and shall hold office for three years ; they shall perform such duties as are now, or hereafter may be by law enjoined upon commissioners of appeals in cases of taxation ; and at the time of the first appointment of such board under this act, the term of office of each member shall be designated by the council ; and thereafter all appointments to said board, except to fill vacancies, shall be for the term of three years. Commissioners of appeals, term and duties.
- 192. SEC. 41.** That the chief of the fire department shall be elected annually on the first Monday in May in each year, and shall hold his office for one year from the first day of June next ensuing his election ; the active firemen of the department shall alone be qualified to vote at such election ; the election shall be held and conducted under such rules and regulations as the council shall by ordinance prescribe. Chief of fire department, election and term of office.
- 193. SEC. 42.** That the town council shall meet annually for organization on the first day of May unless that day should happen to be on Sunday, in which case they shall meet on the day preceding ; the councilman-at-large shall be the chairman and shall preside at all meetings of the council ; in his absence the council may elect one of their number as chairman for the time being ; they shall appoint the times of meeting, determine and establish the rules of their own proceedings, and pass ordinances, by-laws and resolutions pertaining to the purposes and objects of the corporation and necessary and proper for carrying out the provisions of this act. How council shall be organized.
- 194. SEC. 43.** That the council shall, on the first day of April in each year, cause to be printed a full statement of all receipts and expenditures of every description for the year preceding, with all such further information as may be necessary for a full understanding of the financial concerns of the town, and that it shall be the duty of the town clerk to distribute such printed statements among the people of the town or to furnish a copy of such statement to every citizen applying for the same. Council shall publish annual statement.
- 195. SEC. 44.** That a majority of the council shall be a quorum for the transaction of business, but a smaller number may meet and adjourn from day to day ; the council shall hold stated meetings at least twice in each month at the town hall, at such times as they may appoint, but the chairman or any two councilmen may call special meetings by written notice to each of the members, served personally or left at his usual place of abode at least twenty-four hours previous to the time appointed for such meeting, but no business other than that specified in the call shall be transacted at such special meeting, and no business by this act required to be done at a stated meeting of the council shall be done or performed at any such special meeting. What shall constitute a quorum.
Meetings.
- 196. SEC. 45.** That all contracts in which any councilman shall be interested, either directly or indirectly, or in which any councilman may be surety for the faithful performance thereof, shall be null and void, and no member of the council shall become security for any public officer elected or appointed under this act. Contracts in which councilmen shall be interested to be void. Not to become surety for any officer.

Proceedings for
passing ordi-
nances.

Proviso.

Purposes for
which ordinances
may be passed.

197. SEC. 46. That no ordinance or by-law shall be passed by the town council, unless the same shall have been introduced at a previous stated meeting, and shall be agreed to by a majority of the members of the council; and no ordinance shall take effect until five days after it shall have been published in the official newspapers of the town, and if there be none, in at least one newspaper published in the county and circulating in the town; *provided, however,* that no ordinance for opening, grading, flagging, curbing, paving or macadamizing any street, avenue or public place, or for the construction of any sewer, or for any street improvement, shall be passed or adopted unless it shall receive the votes of two-thirds of the members of the council.

198. SEC. 47. That the council may, by the title, "the council of the town of _____, in the county of _____," pass, adopt, alter, modify and repeal ordinances to take effect within the town for the following purposes:

To manage, regulate, protect and control the finances and property of the town; to make and adopt an assessment map or maps whereby to describe lands assessed for taxes or improvements; to ascertain and establish the boundaries of all streets, highways, public lanes and alleys in the town; to regulate, clean and keep in repair the streets, highways, lanes and alleys in the town, and to prevent and remove all encroachments, obstructions and incumbrances in and upon all streets, highways, lanes and alleys, sewers, drains and water-courses; to prescribe the manner in which corporations or individuals shall exercise any privilege granted to them in the use of any street, highway or alley or in digging up any street, highway or alley for any purpose whatsoever; to direct and regulate the planting, rearing, trimming and preserving of ornamental shade trees in the streets, parks and public places of the town, and to authorize or prohibit the removal or destruction of such shade trees; to name and number the streets, houses and lots in the town; to provide for and enforce the removal of snow and ice from the sidewalks and gutters of streets, by the owners of land fronting thereon, and to provide that in case of neglect or refusal of or by the owner of any lot of land fronting on a public street or highway to remove snow or ice from the sidewalks and gutters in front of his lands, that the council may cause the same to be done at the expense of such owner, and that the cost and expense thereof, with interest thereon, shall be added to and shall form part of the taxes next to be levied and assessed upon such lands, and shall be and remain a lien upon such lands until paid; to regulate the use of streets, highways and public places by individuals, vehicles, railways and engines of every kind; to prevent and punish horse-racing and immoderate driving or riding in any street, and to regulate the speed and running of locomotives, engines and railroad cars through the town; to regulate and control the passage through the streets and public places of buildings and other large structures; to prevent animals of all kinds from running at large in the streets or public places of the town, and for the impounding, sale or destruction of the same, and to regulate and prevent the driving of cattle or other animals in droves in or through any of the streets of the town; to prevent and prohibit any practice having a tendency to frighten animals or persons passing in the streets of the town; to regulate or prohibit all public performances and exhibitions for money; to prevent and suppress vice and immorality; to restrain or punish tramps, vagrants, mendicants and street beggars; to preserve the public peace; to prevent and quell riots, disturbances and disorderly assemblages; to restrain and suppress disorderly and gaming-houses and houses of ill-fame; to establish and regulate one or more public pounds, and to provide for the sale of animals impounded, and to fix the fees to be paid persons impounding animals, and the redemption fees to be paid; to regulate and prevent and to provide for the destruction of dogs running at large; to regulate or prohibit swimming or bathing in the waters of or bounding the town; to regulate the removal or destruction of buildings that are liable to fall, or buildings that are dangerous to life; to regulate or prohibit the carrying on of manufactures dangerous in causing or promoting fire;

to regulate or prohibit the manufacture, sale, keeping, storage or use of fireworks, gunpowder, camphene, kerosene, burning-fluid, nitro-glycerine, dynamite or other inflammable or explosive materials; to raze and demolish any building or erection when necessary to prevent the extension of a conflagration, and to provide for the ascertainment and payment of just damages and compensation to owners of property destroyed in such cases; to regulate or prohibit the use of firearms and the carrying of weapons of any kind; to erect, provide, repair and control a town hall, police and station-houses, fire engines and such other buildings as may be necessary; to regulate, license or prohibit inns, taverns and restaurants, and the sale or transfer of spirituous, vinous, malt or other strong or intoxicating liquors; *provided, however*, that no such license shall be granted to any person who is not a citizen of the United States; and to fix and prescribe the terms and conditions upon which licenses for such purposes shall be granted, and to provide for the revoking and annulling of licenses for violations of such conditions; *provided, however*, that all such conditions shall be printed on the licenses; *and provided, further*, that no license shall be granted unless the applicant shall first pay to the town clerk such license fee as may be required by any general law of this state, and if there be no general law, such fee, not less than fifty dollars, as may be fixed by ordinance; and if the application is rejected, the deposit shall be returned; to provide that the penalty for a second conviction within six months of a violation of any such ordinance shall be a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding three months; to license and regulate cartmen, porters, hack, cab, omnibus, stage and truck-owners and drivers, carriages and vehicles used for the transportation of passengers and merchandise, goods or articles of any kind, and to require the owners to mark vehicles in such manner as the council shall designate; and to license and regulate auctioneers, common criers, pawnbrokers, junk-shop keepers, sweeps and scavengers, and to prohibit unlicensed persons from acting in such capacities; to license and regulate peddlers, hawkers and hucksters, and to require the payment of a license fee of not exceeding five dollars in all cases, except as herein otherwise provided; and no license granted for any of the aforesaid purposes by any other authority shall be valid, except license granted by the governor to hawkers and peddlers; to fix the penalty where the same is not fixed or provided for by this act for the violation of any ordinance by this act authorized to be passed, which penalty shall be a fine not exceeding twenty dollars, and in case of non-payment thereof, imprisonment in the county jail not exceeding thirty days; to provide for, establish, regulate and control a fire department and to establish rules for the government thereof (whose members shall be exempt from military duty in time of peace, and from serving as jurors in courts for the trial of small causes), and to provide engines and other fire apparatus, and to designate the manner of appointing and removing members of the fire department; to provide for the government of the fire department and the care and repair of the engines and other fire apparatus, and for the purchasing of necessary supplies by a board of fire commissioners, consisting of five members, to be appointed by the council, who shall hold office for one year and who shall receive no salary; and to further provide for the payment of the lawful debts contracted or incurred by such commissioners.

Proviso.

Proviso.

Proviso.

199. SEC. 48. That the council shall have power by ordinance to regulate the use of the streets of the town by street railway companies; to require such companies to lay and confine their tracks according to such grades of the street as may from time to time be established by the council; to keep that portion of the street lying between the rails paved and in good repair, also to keep the street to the extent of eighteen inches beyond the rails in good repair and on a level with the rails; to keep their tracks free from snow and ice and compel the removal of the same from the streets; and to provide a penalty not exceeding fifty dollars for every violation of such ordinance.

Council may regulate street railways.

May regulate use of street which forms boundary line with adjoining municipality.

200. SEC. 49. That in case the boundary line between any town formed under this act and any other municipality shall be one of the extreme lines of a street or road, such street or road being wholly within such town, it shall be lawful for the council of such town to pass ordinances regulating the use of such street or road by the owners or occupants of property in such other municipality adjoining such street or road, and to provide penalties for the violation of such ordinance not exceeding ten dollars fine; and it shall be lawful for any constable or policeman of such town to execute any process issued by the recorder for the violation of any such ordinance within the territorial limits of such other adjoining municipality.

May establish and regulate police force.

201. SEC. 50. That the council shall have power by ordinance to provide for, establish, regulate and control a day and night police, and to regulate and define the manner of their appointment and removal, their duties and compensation; *provided*, that such police force (excluding officers) shall not exceed more than one policeman to every eight hundred inhabitants; *and provided, further*, that no policeman or police officer shall be removed except for neglect of duty, misbehavior, incompetency or inability to serve.

Proviso.

Proviso.

May pass ordinances for the preservation of the public peace, &c.

202. SEC. 51. That the council shall have full power to enact and pass such and so many other ordinances or by-laws for the peace, good government, order, welfare and convenience of the town as they may deem necessary, proper and expedient, not repugnant to this act or to the constitution of this state or of the United States.

Power to pass certain other ordinances.

203. SEC. 52. That the council shall have power to pass ordinances appropriating and providing for raising by taxation moneys for the following purposes:

- I. For lighting the streets of the town;
- II. For the support of the police department;
- III. For the maintenance of the fire department;
- IV. For regulating, cleaning and keeping in repair streets and highways;
- V. For repairs to public highways;
- VI. For the relief of the poor;
- VII. For water for the extinguishment of fires;
- VIII. For the payment of interest upon the debt of the town and such part of the principal as shall from time to time become due and payable;
- IX. For the sinking fund required to be raised;
- X. For the general and incidental expenses of the town, including the printing and publication of minutes of council, ordinances and such other matters required by law to be published;
- XI. For the support of public schools; and no appropriation shall be made or ordered for any other purpose, except by a majority of the voters of the town voting at an annual town election.

May provide for lighting streets, &c.

204. SEC. 53. That the council shall have power to provide for the lighting of the streets, avenues and public places of the town, in such places as they in their judgment may deem necessary.

May provide for a water-supply.

205. SEC. 54. That the council shall have power to provide for a supply of pure and wholesome water to the inhabitants, and for extinguishing fires, by contract, either with private corporations or with adjoining municipalities owning or controlling water works; and the council shall have power to fix and determine the terms and conditions upon which private companies may lay their mains or pipes in the streets of the town.

May designate an official newspaper.

206. SEC. 55. That the council shall have power to designate an official newspaper in which all advertisements and notices required by law to be published shall be published.

May borrow money in anticipation of revenues.

207. SEC. 56. That the council shall have power to borrow money temporarily, in the name of the town, in anticipation of appropriated revenues not exceeding in amount one-half of such anticipated revenues.

May order special elections to fill vacancies.

208. SEC. 57. That the council shall have power at any time to direct a special election to fill any vacancy that may occur in their own body.

May require owners to keep sidewalks, &c., in repair.

209. SEC. 58. That the council may require the owners or occupants of any parcel of land fronting on any improved street to keep the sidewalks, flagging, curbs and gutters in front of such land in good repair, and if in

any case, after reasonable notice, such repairs be not done by such owner or occupant, the council may have the same done, and the expense thereof, with interest and costs, may be recovered by the council by suit in the name of the town against such owner as for so much money due for labor performed and material furnished by said town for such owner or occupant, at his request, or may be assessed as a tax on such lot, and shall be a lien thereon, and be collected as other taxes are collected.

210. SEC. 59. That the town council shall appoint three discreet persons, residents and freeholders of the town, to be commissioners of assessment, and who shall hold their offices for three years, except as hereinafter provided; the said commissioners shall make all assessments for improvements of every kind under this act; *provided*, that if any of the said commissioners shall be interested in the matter of any such assessments, the council shall appoint some discreet and impartial freeholder or freeholders, resident in said town, to act in regard to such assessment in lieu of the commissioner or commissioners interested therein as aforesaid; and every report of assessments made by commissioners of assessment shall be accompanied by the oath or affirmation of each commissioner making the same that he is not interested, directly or indirectly, in the matter of the assessment, and that he has performed his duties in relation thereto honestly, faithfully and impartially, to the best of his ability, skill and understanding, which oath or affirmation the clerk of said town is hereby authorized to administer; and the first commissioners appointed under this act shall determine among themselves by lot which of them shall serve for one, two and three years respectively, and thereafter annually one commissioner shall be appointed to serve for the full term of three years.

Commissioners
of assessments,
term of office,
duties, &c.

Proviso.

211. SEC. 60. That the council shall have power and they are hereby authorized by ordinance—

To lay out, open, straighten, widen and extend any street, avenue or highway, or any part or section thereof, and to take and appropriate for such purpose any necessary lands and real estate upon making compensation to the owners thereof as hereinafter provided; to provide for grading and altering the grade of streets and avenues in the town, and filling, macadamizing, guttering, curbing, bridging, planking, graveling, paving and repairing the same; to make and adopt a general plan of sewerage and drainage for such town or any section thereof, conformably to which all sewers, drains, receiving basins and all other appurtenances of public drainage shall be made; to provide for the building and constructing of public sewers and drains, and for taking land and real estate for building the same and for acquiring an outlet for sewers over and through lands in adjoining municipalities; *provided*, that the consent of such adjoining municipality and of such other municipality (if any) as may in any manner be affected by such outlet shall be to that end first obtained; *provided*, however, that no ordinance for any of such purposes shall be passed except in the manner hereinafter stated and unless it shall receive the votes of two-thirds of the members of the council; *and provided further*, that any such ordinance may be introduced and passed at the same stated meeting of the council.

Council shall have
power to lay out
and open streets,
provide sewer-
age, &c.

Proviso.

Proviso.

Proviso.

212. SEC. 61. That streets or sections of streets shall be laid out, opened, straightened, extended, widened or otherwise changed as to their boundaries, in the following manner and not otherwise: a petition, in writing, signed by the owners of one-sixth of the property fronting on the improvement desired, shall be presented to the council, setting forth accurately the improvement desired, together with a deposit of such sum of money as the council shall direct, towards meeting the expense in case such improvement shall not be ordered, which sum, if the improvement shall finally be determined to be made, shall be returned to the petitioner or petitioners; and if such improvement shall not be determined to be made, said sum, less any expenses that may have been incurred, shall be returned as aforesaid; if the council shall favor the petition the same shall be referred to the commissioners of assessment and a town surveyor not interested in such improvement, who shall thereupon make

Proceedings in
cases of laying
out and improv-
ing streets, &c.

a map of such improvement, showing the real estate to be taken therefor, and all the property, which in the judgment of said commissioners will be specially benefited thereby, designating each lot and parcel on said map by a letter or number; said commissioners shall also ascertain, so far as practicable, the name of the owners of said real estate to be taken and property to be benefited, and the interest of each of the owners of real estate to be taken, and when such names or estates are not known they shall so report; they shall also appraise the value of the interest of each known owner of real estate to be taken, and the damage to be done to such owner by taking the same; and where the estates in any plot of land are unknown, they shall appraise the value of or the damage done to the fee-simple; said commissioners shall also estimate all other expenses likely, in their judgment, to attend the completion of the improvement; said commissioners shall also estimate the amount likely to be realized from the sale of any buildings, or parts of buildings, required to be taken on account of said improvement, and shall so determine the probable net cost of making the improvement; this probable net cost they shall then assess upon the land to be specially benefited, in proportion to the benefit to be received; thereupon they shall, under their hands, make a report of the facts ascertained and of the appraisements, estimates determinations and assessments made by them concerning said improvement, and shall file such report and their map with the clerk of the town; thereupon the said clerk shall cause a notice of the filing of said map and report to be printed in the official newspaper of the town, or, if there be none, in a newspaper published in the county and circulating in the town, for the period of two weeks, which notice shall contain a general description of the improvement intended, of the land to be taken, and of the land to be assessed therefor, and shall state the time and place when and where the council will meet to hear and consider any objections to said report or to the improvement, which may be presented in writing; said clerk shall also, within said period, cause notices to the same effect to be posted at points not over three hundred feet apart along the whole line of said improvement, the time appointed for hearing such objections being not less than ten days after the expiration of said period of two weeks, and shall also, within the said period, serve a copy of such notice upon resident owners of real estate affected thereby, but the omission of the clerk to serve such notice shall not invalidate any of said proceedings; and all objections at such time and place, presented in writing, the council shall consider and adjudicate upon, and the awards or assessments made in said report may be corrected accordingly; a copy of which corrections, signed by the chairman of the council, shall be filed with the said clerk within twenty days after the expiration of said period of two weeks; if the said council shall then determine to make said improvement, notwithstanding any objections to the same, the said council shall confirm said awards, with the corrections, if any, and pass an ordinance ordering said improvement to be made and completed in such manner as said council may direct; under the supervision of said commissioners of assessments; *provided*, the said council shall not proceed to make any such improvement if the owners of the property subject to more than two-thirds of the assessment for the improvement shall remonstrate against the same being made; the said council shall also pass a resolution directing the several sums awarded to be paid to the persons to whom the awards are made for real estate taken and damages sustained in making said improvement, and upon the passage of such resolution the fee-simple of said real estate to be taken shall be vested in the town; *provided*, that where the commissioners shall have reported the name or estates of the owners of any plot as unknown, the said resolution shall direct the sum of the award on account of such plot to be paid to the owners thereof, when and as their interest may appear, and any such owner or person interested in said land may, by bill in chancery, according to the practice of that court, have the said sum distributed or in whole or in part paid over to him, as law and justice may require; after the completion of said improvement the said commissioners shall

Proviso.

Proviso.

ascertain and determine the actual net cost thereof, and shall assess, as hereinafter provided, such actual net cost upon the lands specially benefited in proportion to the benefit received.

213. SEC. 62. That whenever, by the report and map of the said commissioners, corrected as aforesaid, it shall appear that an award has been made to any person for property taken or damages sustained, and that such person is also assessed for benefits received on account of the same improvement, then if the assessment equal or exceed the award, no payment shall be made on account of such award; and if the award exceed the assessment, only so much of the award as is in excess shall be paid, and the resolution of the council ordering the awards to be paid shall be framed accordingly; and when the amount to be assessed shall be finally determined, such amount shall be set off against the amount of the award unpaid; and if the amount of the award unpaid be in excess, the assessment shall be canceled, and such excess only shall be paid to the person to whom the award is made; and if the amount of the assessment be in excess, the award unpaid shall be canceled, and such excess only shall be a lien upon the property assessed; the rest of the award or assessment, as the case may be, being also canceled.

Awards may be offset by benefits.

214. SEC. 63. That whenever any person who shall have presented objections as aforesaid, to an award, shall be dissatisfied with the determination of the council, thereupon such person may commence an action on contract against the said town 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 is located), which action shall proceed in all things as if such town had, upon taking the real estate required for the said improvement, agreed in writing to pay therefor the value thereof and the damage done by taking the same; and if in said action the plaintiff shall recover more than the amount awarded as aforesaid, he shall recover his taxable costs according to law; and if he shall not recover more than the amount awarded, then the defendant shall recover his taxable costs against the plaintiff, and shall be entitled to have them deducted from the amount recovered by the plaintiff, and execution shall issue only for the balance, the assessment (if any) against the plaintiff being also deducted from the amount of the judgment; *provided always*, that no such action shall be brought by any person who may have received payment of the amount awarded, nor unless notice that such action will be brought be filed with the clerk of said council within sixty days after the confirmation of the award, nor unless such action be commenced within six months after such confirmation; *provided further*, that the judge of the said circuit court may, upon petition, for good cause shown, and upon such terms as he may direct, dispense with either or all of the provisions in the last proviso contained.

Proceedings in cases of dissatisfaction with determination of council, &c.

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215. SEC. 64. That any street or section of a street may be graded, flagged, macadamized, paved, curbed, guttered, or have a sidewalk of any material constructed thereon, or be otherwise improved, as hereinbefore provided, in the following manner, namely, on the petition in writing to the council by the owners of one-sixth of the lands fronting on the street or section of street proposed [to be] improved, or upon like petition of ten freeholders, the council shall, by resolution, direct the town clerk to advertise such application or petition and the notice hereinafter provided for, for at least two weeks, once in each week successively, in the official paper of the town, or if there be none, in one or more newspapers published in the county and circulating in the town, and to post copies of the said petition and notice in five public places in the town, designated by the council, at least ten days prior to the time fixed for the hearing of objections to such improvement; the clerk shall also publish and post as aforesaid, with the petition, a notice signed by him, stating that objections in writing to said proposed improvement shall be filed with him and designating the time and place when and where the town council will meet to consider such objections, which time shall not be less than ten days after the date of the first publication of such petition and notice as aforesaid; and the said clerk shall

Proceedings to cause streets to be improved, &c.

also serve like notice on the owners of property residing along the street or section of street so proposed to be improved, at least five days before the time designated in said notice; *provided, however*, that no assessment shall be set aside or affected by reason of the failure of said clerk to serve such notice; and at or before the time named in such notice the said clerk shall file in his office affidavits showing that such petition and notice have been published and posted as herein required; at the time named in such notice the council shall proceed to consider such objections as shall have been presented, and if it appear that the owners of two-thirds of the land fronting on such proposed improvement have objected thereto, such improvement shall not be made, and all costs and expenses incurred in such proceedings shall be paid by the petitioners, to secure which the council shall in all cases require a deposit of fifty dollars before receiving any petition; and the council may, in its discretion, determine not to make such improvement, in which case the deposit made by the petitioner or petitioners, less any expenses that may have been incurred, shall be returned to him or them; and the defeat of any ordinance for such improvements, introduced before the council, shall be conclusive as to the determination of the council not to make such improvement; at any time after the time named in said notice for objections, the council may proceed to pass an ordinance for such improvement, and such ordinance shall be valid if it describes in general language the improvement required to be made and done, and it shall not be necessary to state therein any other matter or thing connected with said improvement; the town clerk shall publish and post such ordinance in the same manner and for the same time he is required to publish and post the petition for the improvement described therein; and he shall file in his office an affidavit showing that such ordinance has been duly published and posted; at any time after the passage of such ordinance the council may require the clerk to advertise for proposals for doing the work of and furnishing the materials necessary for such improvement, in the official paper of the town and in such other newspapers as shall be designated by the council, which proposals shall be presented in such form and manner and under such regulations as the council shall prescribe; upon the coming in of such proposals the council may enter into contract with the lowest responsible bidders on the terms of their proposals; *provided, however*, that the council may reject all bids if they deem it for the interest of the town so to do, in which case they shall again advertise for proposals and shall proceed in all things as if no proposals had been offered; and the council shall require the person or persons so entering into contract with the town to give bonds with ample freehold security for the due performance thereof.

Proceedings to
cause sewers to be
constructed, &c.

216. SEC. 65. That sewers may be built and constructed in any of the streets of the town under the control of the town authorities on the petition of owners of one-sixth of the lands adjoining the proposed route of the sewer; and the proceedings, after receiving such petition, shall be in all respects the same as are hereinbefore set forth for flagging and grading of streets, and all the provisions of this act relating to flagging and grading of streets shall be applicable to proceedings for the construction of sewers, except as modified in and by this section.

Inspector may
be appointed.

217. SEC. 66. That the council may appoint an inspector over the work and materials on any sewer or street improvement and may fix his compensation; the amount of such compensation shall be included in and form part of the cost of the improvement.

Before work
accepted, meet-
ing shall be held
to consider
objections.

218. SEC. 67. That before the council accept any work on any sewer or street improvement, or any final payment be made to the contractor, the council shall publish as aforesaid a notice stating when the council shall meet to receive and consider objections in writing to the work and materials done and used in such improvement, and if any such objections shall appear to be well founded, the council shall take such action thereon as in their judgment the interests of the town shall require.

219. SEC. 68. That where it shall be necessary in the construction of any public sewer to take or use private property for that purpose, the council shall have power to provide, in the ordinance for the building or constructing of any such sewer, for the taking of such private property as is necessary ; for that purpose the damages and awards to be made for lands so taken shall be determined and made by the commissioners of assessment, who shall report the same to the council, and thereafter the proceedings shall be the same in all respects as are hereinbefore provided for opening of streets.

Council may condemn private property for construction of sewers.

220. SEC. 69. That where any town shall be so situated that it shall have no immediate outlet for sewerage except through adjoining municipalities or by connections with sewers existing or contemplated to be built in adjoining municipalities, it shall be lawful for the town council of the town and the governing body of such adjoining municipality to enter into contract for the payment of a sum in gross by such town for the right to connect with any sewer or sewers in such adjoining municipality, and the amount of such contract price shall be included in the costs of making the sewer in and through such town which it is proposed so to connect with the sewer in the adjoining municipality, and shall be assessed in the manner hereinafter directed as if such contract price were a portion of the cost of wholly constructing the sewer within the territorial limits of the town.

May contract for connection with sewers of adjoining municipality.

221. SEC. 70. That the council shall have power to issue improvement certificates, payable within one year or less with interest, to the amount of eighty per centum of the work done on any street, sewer or other public improvement when certified as correct by the engineer in charge of the work ; and when the contract is fully completed and the work is accepted, the town council may issue a certificate for an additional fifteen per centum of said work done, and in not less than three nor more than six months after the date of the acceptance of the work may issue a final certificate for the balance due, unless some errors or defects in the work shall have appeared, in which case the certificate shall be withheld until the defect or errors are rectified to the satisfaction of the council.

May issue improvement certificates, &c.

222. SEC. 71. That the cost and expense of widening, opening or extending any street, and after the completion thereof the whole cost of any street, sewer or other public improvement, shall be ascertained and determined by the commissioners of assessment, and such cost and expense shall, so far as the same can be, be assessed upon the lands and real estate specially benefited by the improvement, in proportion to the benefit received ; and no lot or parcel of land shall be assessed more than it is so specially benefited ; and if the total cost of any improvement shall exceed the aggregate assessable special benefits, the excess shall be borne and paid by the town at large ; the commissioners shall file their report with the town clerk, which shall be accompanied by a map showing what lots and parcels of land are specially benefited by the improvement, the amount assessed as special benefits upon each lot or parcel of land, and the names of the owners of the several lots and parcels of land assessed, so far as the commissioners can ascertain the same, and the amount, if any, of the excess of the cost of the improvement over the aggregate assessable special benefits ; but no assessment shall be deemed defective by reason of any mistake in the names of the owners of lands assessed, or omitting the said names or any of them ; the clerk shall publish and post notices in the same way and manner hereinbefore prescribed for publishing and posting the petition for the improvement and its accompanying notice, stating that the map and report of the commissioners have been filed in his office, and that the council will consider any objections to such report, map and assessment presented in writing on or before a day named in such notice to be fixed by the town council, which day shall be at least ten days after the first publication of such notices ; after considering such report, map and assessment, and such objections as may have been presented against the same, the said council may confirm the said report, map and assessment, or if deemed necessary may return the same to the commissioners for revision

Cost of improvements shall be ascertained and assessed.

Notice of filing of map and report shall be published and posted and objections shall be considered.

and correction, who shall return the same corrected and revised without unnecessary delay ; and thereafter the council may, without further notice, confirm the said report, assessment and map.

No injunction or certiorari shall be allowed after contract has been awarded.

223. SEC. 72. That no certiorari, injunction or other writ or process shall be allowed or granted to set aside any ordinance for any improvement after the contract therefor shall have been awarded by the council of the town ; and no certiorari, injunction or other writ or process shall be allowed or granted to set aside any assessment made for any sewer or street improvement of any kind after thirty days shall have elapsed from the date of the confirmation of such assessment by the council of such town.

Bonds may be issued, &c.

224. SEC. 73. That the council shall have the power to issue bonds payable in not exceeding ten years, and bearing interest at not exceeding six per centum per annum, to raise moneys to pay for lands taken for opening or extending or widening streets, constructing roads or building sewers, or for the redemption of improvement certificates issued under this act, or to pay any judgment recovered against the town, and the council may likewise issue bonds to run not exceeding ten years, and bearing interest at not exceeding six per centum per annum, as above, to renew such part of the bonded debt of the municipality of which the town is the successor which may become due and payable, and for the payment of which no provisions shall have been made.

Fiscal year, when to begin.

225. SEC. 74. That the fiscal year of the town shall commence on the first day of May in each year.

Redemption moneys, how appropriated.

226. SEC. 75. That all moneys received on redemption of lands from sales for unpaid taxes, and for or on account of arrears of taxes, shall be apportioned to and among the several appropriations for which such taxes were raised, except that the costs of sale and redemption fee shall be paid into the incidental fund, and all moneys received on redemptions of lands from sales for unpaid assessments shall be paid into the sinking fund, excepting costs of sales, which shall be returned to the incidental fund ; all unexpended balances remaining at the close of any fiscal year shall be appropriated or transferred or otherwise disposed of as the council in its judgment shall deem proper.

Principal and interest of bonded debt, how raised.

227. SEC. 76. That there shall be annually raised by taxation a sum sufficient to pay all interest accruing on the bonded debt during the fiscal year, and also at least three and one-third per centum of the principal of such bonded debt, excluding therefrom bonds issued for street improvements, which shall be paid into the sinking fund.

License money shall be paid into incidental fund.

228. SEC. 77. That all moneys received for licenses, and all other moneys received and not specifically appropriated, shall be paid into the incidental fund.

Interest on unpaid taxes, &c.

229. SEC. 78. That all taxes and assessments in such town shall bear interest at the rate of seven per centum per annum from the time the same became due and payable.

Taxes shall remain a lien.

230. SEC. 79. That all taxes and all assessments heretofore or hereafter levied, assessed, or made upon any lands tenements or real estate, situate in such town, shall be and remain a lien thereon until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereof ; and if the full amount of any such tax or assessment shall not be paid and satisfied within such time as shall be limited and appointed by the council for the payment thereof, it shall and may be lawful for the council to cause such lands, tenements or real estate to be sold at public auction for the shortest term for which any person will agree to take the same and pay such tax or assessment, or the balance due thereof remaining unpaid, with the interest thereon, and all costs, charges and expenses, and to execute under the common seal of said town a declaration of such sale, to be signed by the chairman of the council and the town clerk, and to deliver the same to the purchaser, and such purchaser, his executors, administrators or assigns, shall, by virtue thereof, lawfully hold and enjoy the said lands, tenements or real estate for his and their own proper use against the owner or owners thereof, and all persons claiming under him or them, until said term shall be completed and ended ; *provided*, the said council shall first have caused

Proceedings when land is sold.

Proviso.

said sale to be advertised for at least two months in its official paper, or, if none, then at least in one public newspaper published in the county and circulating in such town, and also by advertisements put up in at least five public places in such town, which advertisement shall describe the said lands, tenements or real estate and specify the amount of assessment or tax; and the recitals in such declaration of sale shall be evidence of the assessment, advertising and sale; *and provided, also,* that the purchaser shall not be entitled to possession of lands so purchased until the period herein limited for redemption shall have expired; *and provided, also,* that the lands, tenements or real estate so sold may be redeemed by the owner, mortgagee, occupant or persons interested therein, or by any other persons, or in behalf of the owner, mortgagee or claimant of such lands, tenements or real estate, at any time within two years after the sale for either taxes or assessments, or for both, by paying to the treasurer of the town, for the use of said purchaser, the purchase-money, together with any other sum paid for tax or assessment, which the said purchaser may have paid, chargeable on such lands, tenements or real estate, and which he is hereby authorized to do, with interest thereon at the rate of fifteen per centum per annum, in addition thereto; and the certificate of the treasurer of the town, stating the payments, and showing what lands, tenements and real estate such payment is intended to redeem, shall be evidence of such redemption; any mortgagee shall have power to redeem at any time until the expiration of the six months' notice therein specified; no mortgagee whose mortgage shall have been duly recorded before sale for any tax or assessment shall be affected by such sale until six months' notice, in writing, shall have been given to him, either personally, or if not to be found in said town, then such notice shall be deposited in the post-office in said town, directed to him at his last-known place of residence (or at the post-office nearest thereto), but nothing therein contained shall be so construed as to impair the lien created by such tax, assessment or sale; *and provided,* the same term of time for which any lands, tenements or real estate so sold as aforesaid shall not commence, nor shall said purchaser or those claiming under him have a right of possession to said lands, tenements or real estate until the two years limited for the redemption of the same shall have expired, and the said purchaser or those claiming under him shall, at the expiration of the time limited in such declaration of the sale, quit and surrender the said lands, tenements or real estate in as good state and condition as when he entered thereon, natural wear and accidents excepted; *provided, also,* that the sale may be adjourned or postponed from time to time, or suspended, as the council or their committee, appointed to attend the said sale, may direct; *and provided,* that if, at any sale of lands, tenements or real estate, for assessment or taxes, the whole or any part thereof shall remain unsold for want of purchasers, then it shall be lawful for the said council or said committee to adjourn the sale not less than thirty days nor more than sixty days, twenty days' notice at least, by publication for two weeks and posting, shall be given as aforesaid of the said adjourned sale; and if, at such adjourned sale, there shall be no purchasers for said lands, tenements or real estate, or for any part thereof, then it shall be lawful for the treasurer of the said town to purchase the said lands, tenements or real estate for any term not exceeding one hundred years for the benefit of the town, subject to the same redemption as hereinbefore provided for; *provided, also,* that all moneys paid for the redemption of said lands, tenements or real estate as aforesaid, together with all taxes and assessments paid by any mortgagee or judgment creditor, shall be a lien upon said lands, tenements or real estate for the amount so paid, with interest at the rate of seven per centum per annum, and such lien shall have precedence over all other liens on said lands, tenements or real estate; *provided, further,* that a complete record of all taxes and assessments shall be kept in the town clerk's office, which record shall contain the time when such assessment and taxes were laid, the time when they were paid (and if the property has been sold therefor), the time of said sale and to whom sold, and if redeemed, when and by whom; it shall be the duty of the town clerk to

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enter in a book to be called "record of sales," a minute of all declarations of all sales, and to give certificates of search in relation to liens to any person or persons applying for the same, and to cancel such declarations when the property for which they were given shall be redeemed, on the certificate of the town treasurer of such redemption, and to file such certificate in the said clerk's office; it shall be the duty of the treasurer to make out two certificates of all property redeemed, one for the person redeeming and one to be filed in the said clerk's office; it shall be lawful for the council of said town to sell, assign and transfer any declaration of sale or any term in lands, purchased for the benefit of said town as aforesaid, or any portion of a term, for such price as said council may think proper.

Dog tax to be levied.

231. SEC. 80. That the assessor shall levy a tax upon every person who owns or has the care of any dog, male or female, as follows: one dollar for each male dog, and three dollars for every female dog, in lieu of the state law, which tax shall be appropriated to the support of the school.

Time when assessments shall be completed.

232. SEC. 81. That the assessor shall complete his assessment and present his books to the council for examination by the third Monday in September annually, and the council shall complete their examination of the same by the first Monday in October; immediately thereafter the collector shall give notice as required by section ten of the tax act, and within thirty days thereafter the collector shall make the demand and give the notice as required by section eleven of the tax act, and the day fixed by him for the payment thereof shall not be later than December twentieth.

Property of school districts, &c., shall become property of newly-incorporated town.

233. SEC. 82. That all the property, real and personal, of the several school districts existing within the limits of any town, borough or township, before its incorporation under the provisions of this act, shall, upon such incorporation, become and be the property of such incorporated town, and shall be held in its corporate name, and the several obligations, contracts and debts of said previously-existing school district shall be assumed by and shall become and be the obligations, contracts and debts of said incorporated town, and that the board of education shall possess and exercise all the powers and perform all the duties by law vested in or imposed upon the trustees of school districts; they shall organize annually by choosing a chairman and a clerk, and may establish schools and provide for their government, and shall keep all school property in good repair; they shall define and fix the duties and compensation of their clerk, who shall also perform all duties enjoined by law on district clerks; *provided*, that no property shall be bought or building erected by the said board unless a majority of the voters of the town voting at an annual town meeting shall have voted an appropriation for that purpose; in case any appropriation for the purchase of land and the erection of a school building shall be voted by the electors of the town at any town election, the council shall issue bonds in the corporate name of the town for the amount of such appropriation, in such denominations as they shall deem proper; such bonds shall be designated "school bonds," shall bear interest at not exceeding the rate of six per centum per annum, and shall not be sold for less than their par value; they shall be made payable in such manner that, at the expiration of three years, three-fifteenths thereof shall become due and payable, and thereafter one-fifteenth thereof shall become due and payable annually; the council shall provide for raising by taxation annually the interest thereon and one-fifteenth of the principal thereof; the proceeds of the sale of said bonds shall be held by the town treasurer and shall be paid out by him on the warrants of the board of education; at any time after an appropriation is voted as aforesaid, the board of education may purchase the necessary land and enter into contract for the erection of a school building thereon, the title to which property shall be vested in the town by its corporate name.

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Bonds may be issued to meet school appropriations.

Existing laws made applicable.

234. SEC. 83. That all general laws and statutes of this state heretofore passed relating to incorporated towns shall be and they are hereby made applicable to any town formed or created under this act, except in so far as the same may be inconsistent with or repugnant to the provisions of this act.

235. SEC. 84. That all proceedings for opening, widening, extending, grading, regulating and otherwise improving streets and avenues which may be pending and remain unfinished and incomplete at the time of incorporation under or adoption of this act by any town or township, shall be proceeded with and completed under the laws in force at the time such proceedings were commenced, and as if such town or township had not become incorporated under this act.

Unfinished street improvements shall be completed.

236. SEC. 85. That every town government heretofore established, formed under and in accordance with the provisions of the acts of the legislature of this state for the formation and government of towns, which has been in fact constituted, formed and organized substantially in the manner directed by this act, containing within its limits and jurisdiction the population herein required, whether the authority to form such government has been lawfully conferred or not, shall be deemed, held and taken to be a town government created under the provisions of this act; and each and every such government is hereby constituted and made a town government, as fully to all intents and purposes as if the proceedings for the formation of the same had been instituted and the said governments had been formed and established under the provisions of this act; and each and every such town government is hereby perpetuated and continued, and authorized without re-organization or further proceeding to assume and exercise all the powers, privileges and franchises herein and hereby conferred upon town governments organized under the provisions of this act; and that all officers heretofore appointed, chosen or elected in any such town government, shall continue in office until the expiration of the term or terms for which they were originally appointed or elected, with all the powers, and subject to all the duties and responsibilities that are conferred or imposed upon like officers appointed, elected or chosen, or to be appointed, elected or chosen in governments formed and organized under the provisions of this act; and that all laws, ordinances, acts and proceedings of every such government heretofore passed, had, done and taken shall have the same force, validity and effect as if they had been passed, had, done and taken by governments formed and organized under and in pursuance of the authority of this act.

Governments under former acts hereby ratified and confirmed.

A supplement to an act entitled "An act for the formation, establishment and government of towns," approved March seventh, one thousand eight hundred and ninety-five, conferring upon towns formed and established under previous acts of the legislature of this state the powers, authority and franchises conferred upon towns organized or to be organized under the act to which this is a supplement, and giving to the acts and proceedings of such towns the force, effect and validity of acts done and proceedings had and taken under the provisions of the act to which this is a supplement.

Approved March 20, 1895.

P. L. 1895, p. 356.

237. SEC. 1. That every town government heretofore established, formed under and in accordance with the provisions of the acts of the legislature of this state for the formation and government of towns which has been in fact constituted, formed and organized substantially in the manner directed by the act to which this is a supplement, containing within its limits and jurisdiction the population therein required, whether the authority to form such government has been lawfully conferred or not, shall be deemed, held and taken to be a town government created under the provisions of the act to which this is a supplement; and each and every such government is hereby constituted and made a town government, as fully to all intents and purposes as if the proceedings for the formation of the same had been instituted and the said governments had been formed under the provisions of the act to which this is a supplement; and every such town government is hereby perpetuated and continued and authorized, without re-organization or further proceeding, to assume and exercise all the powers, privileges and franchises conferred upon town governments by the said act to which

Town governments heretofore established recognized as legal, &c.

this is a supplement; and that all officers heretofore appointed, chosen or elected in any such town government shall continue in office until the expiration of the term or terms for which they were originally appointed or elected, with all the powers and subject to all the duties and responsibilities that are conferred upon or imposed upon like officers appointed, elected or chosen or to be appointed, elected or chosen in governments formed and organized under the provisions of the act to which this is a supplement; and that all laws, ordinances, acts and proceedings of every such government heretofore passed, done and taken shall have the same force, validity and effect as if they had been passed, had, done and taken by governments organized under and in pursuance of the authority of the act to which this is a supplement.

Amendatory act.

P. L. 1895, p. 358.

Approved March 20, 1895.

238. SEC. 1. That section eleven of an act entitled "An act providing for the formation, establishment and government of towns," approved March seventh, one thousand eight hundred and ninety-five [see Sec. 162, *ante*], be and the same hereby is amended so as to read as follows:

Proceedings for
annual town
election, &c.

[That the annual town election shall be held on the second Tuesday in April in each year, between the hours of six o'clock in the morning and seven o'clock in the afternoon, at the place or places in each ward designated by the council; notice of the time and place or places of such election and of the officers to be chosen shall be given by the town clerk at least two weeks before the day of election, by publication in at least one newspaper published in the county in which the town is situated and generally circulating in the town; no person shall be permitted to vote at any such election unless he is an actual resident of the election district in which he offers his vote; immediately after the polls shall be closed at any such election the election officers of each election district shall count the votes given for the several candidates, and certify under their hands the number given for each, and publicly announce the same; and within twenty-four hours thereafter they shall immediately deliver one such statement to the judge or inspector, who shall be delegated to attend the meeting of the board of town canvassers, and one to the town clerk and one to the county clerk, to be by them filed in their respective offices.]

II. Sewers and drains.

An act providing for sewerage in and from certain towns in
this state.

P. L. 1886, p. 243.

Approved April 20, 1886.

Authorities of
town empowered
to enter into con-
tract for con-
struction of
sewers and
drainage of lands,
&c.

239. SEC. 1. That whenever any town in this state is or may be so located that one or more large unimproved and intervening tract or tracts of land lie between said town and tide-water, and by reason thereof no main outlet sewer or sewers can be constructed from said town across or through said tract or tracts of land without either the consent of said landowner or owners and the municipal authorities (if any) intervening between said town and tide-water, or first legally acquiring, at large expense, the lands and outlets necessary for said sewer or sewers, and said owner or owners of said intervening tract or tracts may hereafter determine, in the improvement of their said lands, to construct and build, at his or their own expense, one or more main or outlet sewer or sewers, and of such size, dimensions and kinds as such landowner or owners may deem sufficient for the proper drainage and sewerage of his or their said land or lands, in, through and from the same to said tide-water or to some other sewer or sewers running to said tide-water, he or they furnishing or securing the necessary lands and outlets for the same, and procuring such municipal or other consent thereto as may be necessary, and, in that event, it might be to the great advantage and benefit of any such town, or one or more portion or portions thereof, that the said proposed sewer or sewers be built and constructed in such manner and style, and of such increased

extent, size and dimensions, with the necessary laterals and appurtenances, as to afford and provide one or more main outlet sewer or sewers and the necessary drainage and sewerage, not only for said land or lands of such owner or owners, but for so much of the drainage area of said town as can or may be drained by or into the same ; it shall be lawful in any such case, and all the necessary power and authority is hereby granted, for the town council or governing body of any such town in this state, if deemed for the best interest of said town or any portion thereof, to make and enter into a contract or agreement in the name of said town for the building and construction of the same as hereinafter provided.

240. SEC. 2. That upon the determination in any such case of any such landowner or owners to build and construct one or more main sewer or sewers in, through and from said intervening tract or tracts of land to tide-water, or to some other outlet sewer or sewers leading to tide-water as aforesaid, the said landowner or owners may cause to be prepared a plan and map showing the position, size and extent of the main outlet sewer or sewers intended to be built and constructed by said landowner or owners and the necessary laterals and appurtenances, and the location and extent of the lands in said town from which, with proper connections, water and other drainage, can or may drain into said sewer or sewers, and submit the same to the town council or other governing body of said town for its consideration, and said town council or other governing body shall forthwith file the same in the clerk's office of the said town, there to remain at least ninety days.

Owners may prepare plan and map of main outlet sewer, &c., and submit same to authorities.

Map to be filed with town clerk.

241. SEC. 3. That said town council or other governing body of said town may then cause to be prepared a plan and maps, showing to what extent (if any) said main outlet sewer or sewers should be extended in and through said town, and what laterals and necessary appurtenances should be made in connection therewith, and what the style, size, dimensions and details of the same should be, in order to afford the necessary drainage and sewerage for so much of the drainage area of said town as may be drained by or into the same, and submit the same to said landowner or owners for his or their consideration ; and said town authorities and said landowner or owners shall then have the right and authority to jointly consider the whole matter, and change and revise said plans and maps and finally fix upon such joint plan and maps for the said improvement or improvements as they may mutually determine upon, all of which said plans and maps shall thereupon be filed in the clerk's office of said town, there to remain at least sixty days.

Town council may prepare plan and maps of sewers, &c., and submit same to landowners.

242. SEC. 4. That thereupon and in order that said town and the property-owners of the lands in said town lying within the drainage area of said proposed sewer or sewers and necessary laterals, and the said landowner or owners submitting said plans and maps may know the probable cost of said improvement or improvements, and the proportion of said probable cost which should and will be payable by the said town and the said landowner or owners submitting said plans, any justice of the supreme court, upon application by said town council or other governing body of said town by petition (upon ten days' notice in writing to said landowner or owners submitting said plans and maps), shall appoint three disinterested persons, non-residents of said town, as commissioners, who, after taking an oath before a master in chancery of New Jersey, faithfully to perform their duties under this act, may employ such engineer, surveyor and assistants as may be required, and shall examine into the whole matter and ascertain, estimate and determine, and (after such written or published notice to all persons interested as said commissioners shall fix and prescribe) report in writing what the probable cost of said improvement or improvements, including all the costs and expenses touching or relating thereto will be, and what proportion of the same should be justly and fairly borne and paid by said town, and what proportion thereof should be borne and paid by said landowner or owners submitting said plan and maps, and shall cause to be prepared a map or maps showing the location and extent of the lands from which, in their judgment, with proper connections, water

Justice of supreme court to appoint commissioners.

Commissioners to take oath.

Commissioners to estimate and determine cost of improvement, and prepare map.

and other drainage or sewerage can or may drain into said sewer or sewers, which lands shall be esteemed and known as the drainage area for said sewer or sewers, and shall file said report, map or maps in the clerk's office of said town, with a detailed statement of their expenses paid or incurred therein, which statement, after being approved by said justice of the supreme court, or in case of his death or removal, by some other justice of said court, shall be forthwith paid, together with the compensation of said commissioners, as allowed by said justice, by said town and said landowner or owners submitting said plans and maps in equal proportions.

243. SEC. 5. [Amended by Sec. 262, *post.*]

244. SEC. 6. [Amended by Sec. 263, *post.*]

Map, &c.,
where filed.

Main outlet sew-
ers may be con-
nected with other
sewers.

Proviso.

245. SEC. 7. That upon the completion of any such main outlet sewer or sewers and laterals, as hereinbefore in this act provided, the said town shall have the right, power and authority to connect with said main outlet sewer or sewers, and any laterals thereto, all the sewers and laterals in, through and from all the said drainage area of said town drained by said main outlet sewer or sewers; *provided, however,* that if said main outlet sewer or sewers are constructed by said landowner or owners, under said agreement or contract, the said town shall not have the right, power and authority as aforesaid to connect as aforesaid with said main outlet sewer or sewers, outside of said town, so much of said main sewer and sewers and laterals as lie within the limits of said town, until it shall have first paid to said landowner or owners its part of the cost thereof, agreed to be paid by said town.

Authorities
empowered to
issue bonds.

246. SEC. 8. That in order to raise the proportion of the cost and expense agreed to be paid by such town towards the construction of said sewer or sewers or outlet thereof, it shall be lawful for the town council or other governing body of said town to issue bonds in the corporate name of such town in such amount as may be necessary for that purpose, which bonds shall bear interest at a rate not exceeding six per centum per annum, and shall be payable in not more than twenty years, and shall not be sold or disposed of for less than their par value.

Costs and
expenses of con-
structing sewers
to be assessed by
commissioners
upon lands
benefited.

247. SEC. 9. That of the proportion of the costs and expenses of constructing said sewer or sewers and the cost and expense of making the assessment herein provided for, paid by said town, there shall be assessed by three commissioners (as hereinafter mentioned), upon all the lands and real estate, and each separate lot, tract or parcel of land in said drainage area, lying within the limits of said town, benefited, such portion thereof as will be equal to the amount of the benefits actually acquired by such land and real estate, and each lot, tract or parcel of land, from said necessary sewer or sewers, laterals and appurtenances, proportioned equitably to the amount so as aforesaid paid by said town and to the benefit each piece or parcel of land shall be deemed to have acquired from said sewer or sewers, necessary laterals and appurtenances, and said amount paid by said town; *provided,* that no land or real estate shall be assessed any more than the special benefit actually received; *and provided further,* that whenever the benefits of such main sewer or sewers or outlet are or shall be extended to other property in such town by the building of lateral or connecting sewers, there shall be assessed upon such property a just and equitable portion of such costs and expenses, as hereinbefore provided, not exceeding, however, the special benefits derived therefrom by such property, which assessment may be made in connection with an assessment for such lateral or connecting sewers or as an independent assessment.

Proviso.

Proviso.

Application for
appointment of
commissioners to
be advertised.

248. SEC. 10. That the commissioners in the ninth section of this act mentioned shall be appointed by the circuit court of the county wherein such town is or may be located, on application in behalf of the council or other governing body of such town, who shall cause two weeks' notice of the time and place of such application to be given by publication thereof, at least once in each week, in some daily or weekly newspaper published in said town, if there be any such, and if not, in some such newspaper published in the said county, at which time and place, upon satisfactory evidence of the due publication of such notice, the said court shall, with-

out unnecessary delay, appoint three disinterested persons, who shall be freeholders in said county, as such commissioners, and who shall each, before they enter upon the execution of their said duties required of them, severally take and subscribe an oath or affirmation, before an officer authorized to administer oaths and affirmations, to make the said assessment required of them fairly, legally and equitably, according to the best of their skill and understanding.

Commissioners,
how and by
whom appointed.

249. SEC. 11. That after said commissioners shall have made their assessment, as provided for in said ninth section, they shall make a report to the said court of their said assessment, together with a map and schedule showing all the lands and real estate and each lot, tract or parcel of land in said town assessed, and the names of the owners thereof, as 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 from omitting said names or any of them), and upon the coming in of such report signed by the said commissioners, or any two of them, the said court shall cause such notice to be given as it shall direct of the time and place of hearing any objection that may be made to such assessment; and after hearing any matter which may be alleged against the same, the said court shall, by rule or order, either confirm the said report, or, if deemed necessary, refer the same to the same commissioners for revision and correction, or to new commissioners to be appointed by the said court, to reconsider the subject-matter thereof; and the said commissioners to whom the said report shall be so referred, shall return the same report corrected and revised, or a new report to the said court without unnecessary delay; and the same, on being so returned, shall be confirmed or again referred by the 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 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 a certified copy of said report to be transmitted to the town clerk of said town, with a certified copy of the rule of said court confirming said report, and the town council or other governing body of said town shall thereupon proceed to the collection of said assessment as authorized by law.

Commissioners
to make report
with map, &c.

Proceedings in
case of objection
to report.

Upon confirma-
tion, report to be
final and conclu-
sive.

250. SEC. 12. That said cost and expense of making said assessment, as provided for in the ninth section of this act, and that must necessarily be incurred therein, shall be ascertained by said commissioners, and together with their own compensation, which shall be fixed by said circuit court, shall be paid by said town, and the amount thereof, so far as possible, shall be included in said assessment or assessments made under the provisions of this act.

Cost, expense and
compensation of
commissioners,
how ascertained
and by whom
paid.

251. SEC. 13. That in case of the death, resignation, refusal to serve or disability of any commissioner appointed under the provisions of this act, the vacancy shall be filled in the same manner as provided for the appointment of such commissioner.

Vacancies,
how filled.

252. SEC. 14. [Amended by Sec. 255, *post.*]

253. SEC. 15. That all moneys received in payment of assessments made under the provisions of this act shall be kept, held and applied to and for the redemption of bonds issued under this act, and shall be used for no other purpose whatever.

Moneys received
for assessments,
how applied.

254. SEC. 16. That said main or outlet sewer or sewers shall, after its or their completion, be kept in repair at the joint expense of said town, and said landowner or owners jointly constructing said sewer or sewers with said town.

Main sewer to
be kept in repair
at expense of
town and land-
owners.

254 a. SEC. 17. That this act shall take effect immediately. [See Sec. 256, *post.*]

When act to take
effect.

Supplement.

Approved February 29, 1888.

P. L. 1888, p. 109.

255. SEC. 1. That section fourteen of an act entitled "An act providing for sewerage in and from certain towns in this state," approved April twentieth, one thousand eight hundred and eighty-six [see Sec. 252, *ante*], be and the same hereby is amended so as to read as follows:

Assessments under act to remain a lien until paid, &c.

[That any assessment made or levied under this act shall be and remain a lien upon the lands assessed until paid, notwithstanding any devise, descent, alienation, mortgage or other incumbrance thereon, and such assessment may be collected and enforced in the manner prescribed by law with respect to assessments for other improvements in said town, and shall be subject to the like interest and penalties.]

Amendatory act.

P. L. 1890, p. 305.

Approved May 12, 1890.

256. SEC. 1. That section seventeen of said act [see Sec. 254*a*, *ante*], be changed to be numbered eighteen, and that a certain section to be called seventeen read as follows :

Owners may use sewer upon payment of sum agreed upon.

[That any town, township, village or corporation, or other municipality, or any owner of real estate within, or partly within, an area which may be drained through said sewer, who may desire to use said sewer, shall be permitted, upon consent of the parties constructing said sewer, to do so upon first paying to the parties originally constructing the same such sum as shall be agreed upon by said parties, and in case of failure to agree as to such compensation, the amount may, by the consent of said parties constructing said sewer, be fixed by commissioners to be appointed by the circuit court, upon application of all parties interested in the matter, the procedure therein and of said commissioners in fixing said compensation, and the fixing of the compensation of said commissioners and the costs and expenses incurred to be regulated by the provisions contained in sections fourteen and twelve of said act, so far as the same may be applicable.]

Proceedings on failure to agree.

Supplement.

P. L. 1892, p. 183.

Approved March 23, 1892.

Authorities empowered to prepare plans, maps and specifications showing location of additional main lateral sewers.

257. SEC. 1. That whenever, in any town, township, village, corporation or other municipality, bonds having been issued and outlet sewers have been constructed or are in course of construction, in accordance with the provisions of the act of which this is a supplement, it becomes necessary to construct additional main lateral sewers in order to enable the lands within the drainage area of the said outlet sewers so constructed or being constructed to be efficiently drained, it shall be lawful in any such case for the town council or governing body of such town, township, or village or corporation, to have prepared plans, maps and specifications showing the location of such necessary main lateral sewers, together with details of all necessary appurtenances required, in order to afford the necessary drainage for the drainage area as may be drained into said outlet sewers.

Proceedings if landowners dissent to such plans, &c.

258. SEC. 2. That after the filing of such plans, maps and specifications said town council or other governing body shall cause a notice of the filing of the same by publication in one or more daily or weekly newspapers circulating in the neighborhood of the drainage area for at least three weeks, once in each week, and that the owners can upon the date mentioned in said public notice file with the clerk of said town or other municipality their written dissent to said proposed lateral main sewers, and unless the owners of the majority of the lands within said drainage area shall so dissent thereto as aforesaid at the date appointed by the council or other governing body of said town, the council or governing body of said town shall have the right, if deemed for the best interest of the town or any portion thereof, and all the necessary power and authority is hereby granted to proceed with the construction of said main sewers, by advertising according to the charter of said town for proposals for furnishing all the materials and doing all work required, and to enter into contract with responsible parties to perform the work, but said town shall be under no obligation to award the said contract to the lowest bidder, and may, if deemed for the best interest of the town, reject all bids.

Authorities may enter into contract for performing the work.

Authorities empowered to issue bonds.

259. SEC. 3. That in order to raise the necessary funds for the cost of the said improvement, it shall be lawful for the town council or other governing body of said town to issue bonds in the corporate name of such

town or other municipality in such amount as may be necessary for that purpose, which bonds shall bear interest at a rate not exceeding six per centum per annum, and shall be payable in not more than twenty years, and shall not be sold or disposed of for less than their par value.

260. SEC. 4. That upon the completion of said main lateral sewers the cost shall be assessed upon all lands benefited in accordance with the benefit received according to the provisions of sections nine, ten, eleven, twelve, thirteen, fourteen and fifteen of the acts of which this is a supplement.

261. SEC. 5. That all acts and parts, whether general public, local or special, inconsistent with this act, be and the same are hereby repealed.

Costs and expenses of main lateral sewers to be assessed upon lands benefited.
Repealer.

Amendatory act.

Approved February 28, 1893.

P. L. 1893, p. 40.

262. SEC. 1. That section five of an act entitled "An act providing for sewerage in and from certain towns in this state," approved April twentieth, one thousand eight hundred and eighty-six [see Sec. 243, *ante*], be amended so as to read as follows :

[That after the filing of said report and map or maps, said town council or other governing body shall cause a notice of the filing of said plans, maps, estimates and report to be given by publication in one or more daily or weekly newspapers circulating in the neighborhood of the lands in the said drainage area, for at least three weeks, once in each week, and posting a like notice in ten conspicuous places in the said drainage area for the same period ; and that the owners of the lands in said town lying within said drainage area may or can within thirty days after the date of said notice, file with the clerk of said town their written dissent to said proposed sewer or sewers, laterals and appurtenances, and unless the owners of a majority of the lands in said town lying within said drainage area shall dissent thereto as aforesaid within said thirty days, the said town council or other governing body of said town shall have the right, if deemed for the best interests of said town or any portion or portions thereof, and all the necessary power and authority is hereby granted to make and enter into a contract or agreement in the name of said town, either with said owner or owners, or jointly with the said landowner or owners, with any other person or persons for the construction, by said landowner or owners or such other person or persons, of such sewer or sewers and necessary laterals and appurtenances, upon such conditions, in such manner and of such style, size, dimensions and details as set forth in said plans and maps, mutually determined upon as aforesaid and at such cost as may be agreed upon, and for the payment by said town to said landowner or owners, or such other person or persons of such proportionate part of the cost thereof as may also be agreed upon ; *provided, however,* that the amount agreed to be paid by said town shall not exceed the proportion of the estimated cost which should be borne and paid by said town, as set forth in the aforesaid report made by said commissioners ; *and provided further,* that if in the progress of said work a change in the line of said sewer, as originally set and laid on the map and plans, filed as aforesaid, be considered advisable by the unanimous consent of all parties in interest, who shall have executed and delivered the said contract or agreement for the construction of the sewer or sewers therein specified, the town council or other governing body of said town shall have the necessary power and authority to agree to the change in the line of said sewer and in the terms and conditions of the contract or agreement aforesaid theretofore entered into, and shall have power and authority to enter into such further or additional contract or contracts, agreement or agreements, for the additional expense incurred by such change in the line of the sewer, as set out on said maps and plans so filed, and in the name of the town to enter into such additional contract or agreement, either with the landowner or owners, or jointly with the said landowner or owners with any other person or persons, for the completion of said sewer originally contracted for on a line different from that originally proposed and set out in the plans

Proceedings after filing report, map, &c.

Town council may enter into contract for construction of sewers, &c.

Proviso.

Proviso.

theretofore filed, and upon such terms and conditions and in such manner and of such style, size, dimensions and details as to the work and material additionally to be contracted for, and such costs as may be mutually agreed upon between the parties to said original contract or agreement, and for the payment to said landowner or owners, or other person or persons contracted with, of such proportionate share thereof as shall have theretofore been fixed by the commissioners aforesaid ; *and provided*, that said additional work and material shall not increase the proportionate share of the expense thereof to be borne by said town beyond thirty per centum of the amount agreed to be paid by the original contract or agreement ; *and provided further*, that a map and plans of such intended change and the terms, conditions, details and price intended to be paid for such additional work and material, be filed in the office of the clerk of said town, there to remain at least thirty days, and that public notice of the filing of the map and plans, showing such intended change, and of the details, conditions, price and terms for which such additional contract or agreement is to be entered into, be given in one or more daily or weekly papers circulating in the neighborhood of the lands in the said drainage area, and for at least three weeks, once in each week, and that the owners of the lands in the said town within the drainage area may or can, within thirty days after the date of said notice, file with the clerk of said town their written dissent to said proposed change in the plans and contract, and unless the owners of a majority of the lands lying within said drainage area shall so dissent thereto within said thirty days, the said town shall have the right to enter into such contract or agreement for such additional labor and materials upon the terms, conditions, details and at the prices specified in said plans and specifications so filed as aforesaid as it may deem advisable, and may agree thereto jointly with the said landowner or owners, or other person or persons, jointly with them, anything in any law contained to the contrary notwithstanding ; *and provided*, that the expense of preparing the plans and specifications and other necessary expenses attending the said additional contract or agreement and change therein, be borne and paid by all parties interested, in the same proportion as payments are made to the contractor or contractors under said original contract or agreement aforesaid ; *and provided further*, that any such sewer shall not be constructed so as to at any time empty into 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 in this state.]

263. SEC. 2. That section six of said act [see Sec. 244, *ante*] be amended so as to read as follows :

[That no contract, as provided for in section five of this act, shall be made and entered into between said town and said landowner or owners, jointly of the one part, and any other person or persons of the other part, excepting upon advertisements in one or more newspapers printed and published in the county wherein said town is located, for proposals for furnishing all the materials and doing all the required work, but said town and said landowner or owners shall be under no obligation to award the said contract to the lowest bidder, and may, if deemed for their best interest, reject all bids ; *and provided further, however*, that no advertisement for proposals for furnishing such additional labor and material, caused by said change in the line of the sewer and in the plans and specifications for said sewer, as provided for in the preceding section, shall be necessary, but that the filing of said plans and specifications under said additional contract intended to be made, and the notice provided for by publication in the preceding section shall be sufficient to authorize, and hereby does authorize, said town to enter into such additional contract for said additional work and material according to said change and plans and the specifications filed.]

Proviso.

Proviso.

Proviso.

Proviso.

Contracts to be advertised.

Proviso.

264. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that the provisions of this act shall apply to contracts or agreements made before this act takes effect, under which work has been partially performed. Repealer.

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

Approved April 17, 1888.

P. L. 1888, p. 428.

265. SEC. 1. That it shall be lawful for the common council of any incorporated town in this state, to order and cause sewers or drains to be constructed in any part of such town, and to provide, maintain and order a general system of sewerage and drainage for said town 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, for sewage and drainage, and to provide for the disposal of the sewage and drainage from the town, and to repair and cleanse such sewers and drains. Lawful for common council to cause sewers or drains to be constructed.

266. SEC. 2. That whenever a petition in writing of any owners of property interested shall be presented to the common council of the said incorporated town, asking for the construction of a sewer or drain in any particular section of said town, it shall be lawful for such common council to adopt a resolution declaring its intention to cause such sewer or drain to be constructed, and the said common council shall forthwith cause public notice of such intention to be given by the town clerk, or other designated officer, in a newspaper printed or circulated in such town, for the space of ten days, briefly describing the proposed work and requesting such persons as may object thereto to present their objections in writing, at or before the expiration of ten days from the date of such notice, to the officer signing the same; and if persons owning or representing more than one-half of the lineal frontage of the land along any street, or of the portion thereof through which it is proposed to construct any lateral sewer or drain, shall present their objections in writing, then such proceedings shall cease; but otherwise after the expiration of the said ten days it shall be lawful for such common council to adopt any ordinance for the construction of such sewer or drain, to award contracts for the same or for any part or section thereof, and to take all necessary steps for properly carrying into effect the desired improvement; Proceedings when petition presented asking for construction of sewer, &c.

II. If in the judgment of the said common council 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 common council is authorized to treat with the owners of said lands and to agree with them as to the value of the said benefits, and the compensation to be paid therefor by such owners; and in case of a satisfactory agreement being made between any of the owners of lands likely to be benefited and the said common council, the same shall be in writing, signed by the said owner or owners, and entered upon the minutes of the said common council, and the amount agreed upon as a compensation for the benefits to be derived from said sewer or drain shall be paid by such owner or owners so agreeing, on or before the completion of said sewer or drain. Council authorized to treat with owners of lands.

III. That in case no agreement can be made for such purpose, the said common council shall apply to the circuit court of the county wherein the said town is situate, or to one of the judges of the supreme court of New Jersey, at his chambers, for the appointment of commissioners to estimate and assess such benefits, of the time and place of which application written notice shall be given by personal service of a copy thereof upon the said owner or owners, or by leaving a copy at his or their usual place of residence with a member of his family, or, in case said owner shall be a corporation, by serving a copy of the said notice upon the president, secretary, or one of the directors thereof, at which time and place the said court or judge shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of the town making the In case no agreement can be made, commissioners to be appointed.

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
take oath.

IV. 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 ;

To give notice
of hearing.

V. The said commissioners having thus qualified shall give notice under the direction of the said court or 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 the power to examine witnesses under oath, to be administered by any one of them, to enter upon and view any premises that they may deem necessary, and to adjourn from time to time at their discretion, or as directed by said court or judge ; they shall use diligent efforts to ascertain the names of the owners of the land and real estate benefited by the construction of such sewer or drain as aforesaid, and shall state the same in the report hereinafter mentioned ; but the failure to so ascertain the name of any such owner, or to state the same correctly, or the omission of any such name from the said report, shall not be deemed to invalidate the said assessment nor to be a bar to the collection of the same ;

To make report.

VI. 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 estimate and assessment to the said court or judge of the supreme court, accompanied by a survey and map prepared by the town surveyor or engineer, under their direction, showing the lots or parcels of land and real estate materially benefited by such sewer or drain ; the said report shall state the estimated cost of the whole work, the portion, if any, assessed upon the town at large, the amounts, if any, assessed by agreement between any owner and common council, designating the lots upon which such assessments were made, and shall give the names, as far as ascertained, of the owners of the said lots or parcels of land and real estate, and the amount of the assessment to each owner, for each of 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 such benefit, the excess thereof shall be paid by the town at large ; 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 ;

Proceedings for
confirmation of
report.

VII. That upon the coming in of any such report signed by the said commissioners or any two of them, said court or judge shall cause such notice to be given as it shall seem 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 or judge, either by rule or order, shall confirm the said report or shall refer the same to the said commissioners for revision and correction ; and the said commissioners having reconsidered the subject-matter thereof, shall return the same corrected and revised, or a new report shall be made by them in the premises, to the said court or judge, without unnecessary delay, and the same, being so returned, shall be confirmed by the court or judge either without alteration or with such amendments and revisions as right and

justice shall require; such report, when so confirmed, shall be final and conclusive as well upon the said town as upon the owners of any lands and real estate affected thereby; the said court or judge of the supreme court shall thereupon cause a certified copy of such report as finally adopted, and the accompanying map to be transmitted to the town clerk of the said town, with a certified copy of the rule or order of the said court confirming the same, which shall be forthwith delivered by the said clerk to the common council of the said town.

VIII. That no certiorari shall be allowed by any court to review any 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 of the confirmation of the report of said commissioners;

When certiorari not to be allowed.

IX. That all assessments made under the provisions of this act, whether by agreement or otherwise, shall be and remain a first lien upon the lands and real estate affected thereby, for the satisfaction of any judgment to be obtained therefor, 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, 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 legal rate; and the common council may sue for and recover of each person so assessed the amount of his assessment with interest and costs by an action of contract in the corporate name of said town, in any court of competent jurisdiction, against the person or persons so assessed, for so much money laid out and expended by the plaintiff for the use of such person or persons so assessed, and may declare generally and give the special matter in evidence; and if any such person or persons reside out of the state a writ of attachment may be resorted to as in other cases of non-resident debtors, and the said proceedings of the commissioners and the rule or order of said court or judge shall be conclusive evidence against the defendant;

Assessments to be first liens on lands and real estate.

X. That for his services each commissioner shall receive the sum of four dollars for each day he shall be engaged in the actual performance of the duties herein required of him, to be paid by the town in which the improvement is made.

Compensation of commissioners.

267. SEC. 3. That whenever it shall be feasible or advantageous to any such town to build and extend any part of such sewers, or any of the outlets thereto, through and upon any private lands or property, in order to reach the waters into which the sewage of such town is emptied, then it shall be lawful for said town to acquire the land in fee-simple or any lesser estate or right therein; the proceedings for acquiring such property, and estimating and assessing the damages to the owners thereof, by reason of the taking and appropriating the same, shall conform to the proceedings now provided by law for the acquiring of land for the opening of streets in such town.

When feasible to build sewer upon private property, lawful for town to acquire land.

Proceedings.

268. SEC. 4. That it shall be lawful for each town to expend not more than one per centum of the total valuation of its taxable property in any one year for the purpose of constructing sewers or drains in such town.

Amount which may be expended in any one year.

269. SEC. 5. That in order to meet the expenses of any such improvement, the common council 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 common council 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 town, and shall be applied to the payment for such improvements, or to the payment of any temporary indebtedness incurred by the town therefor.

Council may borrow money to meet expenses of improvement.

Receipts from assessments, how applied.

Lawful for town to issue bonds to provide for cost of improvement.

270. SEC. 6. That in order to provide for so much of the cost of such improvement as shall be required to be paid by any town, and the notes or certificates of indebtedness issued therefor, it shall and may be lawful for incorporated towns to issue bonds, to run for a period not to exceed twenty years, and to bear interest not exceeding four and one-half per centum per annum, which said bonds shall be styled improvement bonds, shall be issued in such denominations as the common council may determine, and be executed under the corporate seal of said town, and the signatures of the mayor, clerk and chairman of the committee on finance; coupons, signed by the mayor, 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 par, and the proceeds thereof shall be used to pay the portion of costs and expenses of said sewers or drains required to be paid by such town 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; *provided*, that in order to meet the interest on said bonds, and redeem the same at maturity, it shall be the duty of the common council 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.

Proviso.

Common council authorized to pass ordinances for government and control of sewers and drains.

271. SEC. 7. That it shall be lawful for the common council of any town in which sewers or drains may be constructed under the provisions of this act, to pass ordinances for the government and control of such sewers or drains, to enter into agreements with private persons or corporations for the use of said sewers and drains under such restrictions as said council may impose, to establish a price to be paid for such use, and to collect the same; *provided*, that all moneys derived from the use of said sewers shall be applied to the payment of the debt incurred in building the same, and the interest thereon.

Proviso.

When act to take effect.

272. SEC. 8. That this act shall not be operative or in effect in any city until the same shall have been accepted by the common council or other governing body therein, by a vote of not less than three-fourths of the members thereof, and be concurred in and approved by the board having the control of the finances therein, and receive the approval of the mayor or chief executive officer.

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

P. L. 1889, p. 316.

Approved April 19, 1889.

Towns authorized to construct sewers, drains, &c.

273. SEC. 1. That it shall be lawful for the common council of any incorporated town in this state to order and cause sewers or drains to be constructed in any part of such town, and to provide, maintain and order a general system of sewerage and drainage for said town, 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, for sewage and drainage, and to provide for the disposal of the sewage and drainage from the town, and to repair and cleanse such sewers and drains.

Proceedings upon petition to common council asking for construction of sewer, &c.

274. SEC. 2. That whenever a petition in writing of any owners of property interested shall be presented to the common council of the said incorporated town, asking for the construction of a sewer or drain in any particular section of said town, it shall be lawful for such common council to adopt a resolution declaring its intention to cause such sewer or drain to be constructed, and the said common council shall forthwith cause public notice of such intention to be given by the town clerk, or other designated officer, in a newspaper printed or circulated in such town, for the space of ten days, briefly describing the proposed work and requesting such persons as may object thereto to present their objections in writing, at or before the expiration of ten days from the date of such notice, to the officer signing the same; and if persons owning or representing more than one-half of the lineal frontage of the land along any street, or of the portion

thereof through which it is proposed to construct any lateral sewer or drain, shall present their objections in writing, then such proceedings shall cease; but otherwise, after the expiration of the said ten days, it shall be lawful for such common council to adopt any ordinance for the construction of such sewer or drain, to award contracts for the same, or for any part or section thereof, and to take all necessary steps for properly carrying into effect the desired improvement.

275. SEC. 3. That in order to provide for the payments of the costs, damages and expenses paid and incurred in the prosecution and completion of said improvement, the common council shall ascertain the whole amount of such costs, damages and expenses, and shall cause to be made a just and equitable assessment thereof upon all the owners of all the lands and real estate peculiarly benefited thereby, in proportion to the benefits received therefor only, upon the same principles and in the same manner as other improvements are now assessed in such incorporated town, and by commissioners of assessments appointed in the same way, of the same number and possessing the same qualifications as are required for commissioners of assessments for other improvements.

Costs, damages and expenses to be ascertained and assessed on lands benefited.

276. SEC. 4. That it shall be lawful for such town to expend not more than one per centum of the total valuation of its taxable property in any one year for the purpose of constructing sewers or drains in such town.

Expenditures limited.

277. SEC. 5. That in order to meet the expenses of any such improvement, the common council may borrow the money necessary therefor temporarily, upon the promissory note of such incorporation, or may issue temporary improvement certificates from time to time, as the work progresses, in such form as the common council 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 town, and shall be applied to the payment for such improvements, or to the payment of any temporary indebtedness incurred by the town therefor.

In order to meet expenses common council may borrow money upon note, &c.

Receipts for assessments to be paid to the treasurer.

278. SEC. 6. That in order to provide for so much of the cost of such improvement as shall be required to be paid by any town, and the notes or certificates of indebtedness issued therefor, it shall and may be lawful for incorporated towns to issue bonds, to run for a period not to exceed twenty years, and to bear interest not exceeding four and one-half per centum per annum, which said bonds shall be styled improvement bonds, shall be issued in such denominations as the common council may determine, and be executed under the corporate seal of said town and the signature of the president and clerk, 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 no less than par, and the proceeds thereof shall be used to pay the portion of costs and expenses of said sewers or drains required to be paid by such town 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; *provided*, that in order to meet the interest on said bonds, and redeem the same at maturity, it shall be the duty of the common council to order the interest thereon, together with a sinking fund of not less than two per centum of the total amount of said issue, to be raised in the annual tax levy.

Towns authorized to issue bonds for cost of such improvement.

Provido.

279. SEC. 7. That this act shall not be operative or in effect in any town until the same shall have been accepted by resolution of the common council or other governing body therein.

Act when to become operative.

III. Water-supply.

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

P. L. 1879, p. 223.

Approved March 14, 1879.

Towns may contract with any city for water-supply.

280. SEC. 1. That the council or common council of any incorporated town in this state shall be and hereby is authorized, from time to time, to contract with the corporation of any incorporated city having water works, or such authority or board thereof as may have care and management of such works (which corporation and authority and board are hereby likewise authorized to enter into such contract), for a supply for such town and the inhabitants thereof, and the works there carried on, of water from such water works, on such terms and conditions and for such a number of years as the contracting parties may agree upon; and such corporation, authority and board are hereby authorized to make alterations and additions to its said water works, and supply pumps, machinery and lay pipes in any place that may be agreed on, and exercise in behalf of such towns all the powers given to such city authority or board for and on behalf of such city, so as to execute the powers hereby given to it and them, and to do like acts in behalf of said towns as it or they may do for and in behalf of said city, and to do any other thing necessary to give effect to and enable it or them to perform such contract on its or their part; all roads or streets in or out of said city may be used to lay pipes in.

Alterations and additions to works authorized.

Authorized to lay supply pipe and erect hydrants.

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

Proviso.

May issue coupon or other bonds.

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

When payable.

Rate of interest. Proceeds of bonds, how applied.

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

Town council to operate and keep works in repair, &c.

Money expended to be reimbursed out of rates collected.

284. SEC. 5. That any local, private or public act, and every part thereof which is repugnant to or inconsistent with this act, or any act or part of act which can be construed to in anywise alter, affect or control or construe this act, be and the same is hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to enable incorporated towns to construct water works for the extinguishment of fires, and supplying the inhabitants thereof with pure and wholesome water.(1)

Passed March 5, 1884.

P. L. 1884, p. 44.

285. SEC. 1. That any incorporated town in this state be, and it is hereby authorized, in the manner hereinafter provided, to take and convey from such source or sources as may be practicable, into and through said town, such quantity of pure and wholesome water as may be required for domestic use, the extinguishment of fires and other purposes by the inhabitants residing within the corporate limits of said town; and to this end such town is hereby authorized by its board of commissioners or other governing body by whatever name it may be called, to appoint three commissioners to be called "water commissioners," who shall have the powers and perform the duties hereinafter mentioned; the first of said water commissioners shall hold his office until the first Monday in May succeeding his appointment, the second for one year, and the third for two years from the first Monday in May succeeding their appointment; on the first Monday in May in each year after their appointment, one water commissioner shall be appointed by such town, who shall hold his office for the term of three years; in case a vacancy should occur in the office of water commissioners, such town, by its commissioners or other governing power, shall appoint a proper person to fill the same and serve the unexpired term; no member of the board of commissioners or other governing power of such town shall be eligible to the office of water commissioner.

Towns authorized to take and convey from sources water for domestic and other purposes.

Appointment of water commissioners.

Vacancy, how filled.

286. SEC. 2. [Amended by Sec. 313, *post.*]

287. SEC. 3. That the said water commissioners are hereby 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 waters of any stream 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 and vicinity as the governing board of said town may, from time to time, deem expedient, and for these purposes said water commis-

Empowered to construct and maintain reservoirs, &c.

(1) This act is extended by Sec. 307, *post.*, to include incorporated boroughs, camp meeting associations and other municipal commissions.

sioners may make all such contracts, and employ all such engineers, workmen and laborers as they may deem necessary, subject, however, to the restrictions hereinafter provided.

Proceedings in case of disagreement between water commissioners and owner of lands as to compensation.

288. SEC. 4. That if it should become necessary, in the opinion of said water commissioners, 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, and no agreement can be made with the owner or owners thereof, as to the amount of compensation to be paid for the laying said pipes through said lands, or the price of such lands, 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 water commissioners 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 either of the justices of the supreme court of this state, upon application to him by said water commissioners, 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 term, not less than ten days, in a newspaper published in such town, to appoint three disinterested appraisers, from the county wherein such town is situate, 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, 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 water commissioners a written appraisement, under the hands and seals of them, or a majority of them, of the award they have made, containing a full description of the lands required as aforesaid, which appraisement the said water commissioners shall cause to be recorded in the registry of deeds for the said county; and upon payment or tender, by the said water commissioners to such owner or owners as aforesaid, or some one of them, of the sum awarded in such appraisement, if any, then the said water commissioners shall have power to enter upon and take possession of the said lands for the purposes aforesaid, and the said town shall be deemed seized in fee-simple of the lands required for the erection of the said reservoirs or other works as 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 water commissioners to pay the amount which may have been appraised as aforesaid, into the court of chancery of this state, 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 water commissioners.

Proceedings in case of appeal.

289. SEC. 5. That in case the commissioners or the owner or owners of the said land shall be dissatisfied with the award of the appraisers named in the preceding section, and shall apply to the justices of the supreme court 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 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 commissioners, 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 commissioners 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 commissioners 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 the court of chancery.

290. SEC. 6. 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 water commissioners, 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 water commissioners, 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.

May enter upon lands to make necessary repairs.

Proviso.

291. SEC. 7. That the work and materials which the said water commissioners are hereinbefore authorized to procure, shall be obtained by contract, whenever the expenditure for any particular work and material shall exceed two hundred dollars, and that notice shall be given by said water commissioners by public advertisement, so that ample time may be given for the reception of proposals therefor; in any advertisement, the proposals invited shall be set forth with as much precision as possible, and it shall be distinctly stated in such advertisement that no extra allowance above the contract price agreed upon will be made under any pretext whatsoever; each contract shall, in all cases, be awarded to the lowest bidder therefor, who shall give bond, with ample security, for the faithful performance of the contract; all such bonds shall be executed to the town in its corporate name, and deposited for safe keeping with the clerk of said town, and no extra allowances shall be made by said water commissioners to any contractor or contractors; all contracts involving a greater amount than two hundred dollars, and all contractors' bonds, shall be presented to and approved of by the governing power of said town before said contract shall take effect.

Work to be done by contract when expenditure exceeds \$200.

Advertisement.

To be awarded to lowest bidder, who shall give bond.

292. SEC. 8. That when said works shall have been sufficiently completed, the said water commissioners 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 water commissioners 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 water commissioners 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.

When work completed, commissioners to furnish water, prescribe rules, &c.

293. SEC. 9. That the rents for the use of the water which said water commissioners 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 water commissioners shall have similar remedies for the collection of said rents, with interest and costs, as the said town has by law for collecting the

Water rents to be a lien.

expense of paving sidewalks in front of lots required to be paved in said town, which remedies it shall be the duty of said water commissioners to enforce in all cases where the water rents shall be more than two years in arrear.

Proper persons may be employed to manage works, &c.

Proviso.

Duty of commissioners to erect hydrants in streets.

Penalty for injury to works or property.

Penalty for polluting water in any reservoir.

Bonds may be issued.

Rate of interest, when due.

Treasurer to make sale of bonds.

Proceeds, how applied.

Bonds not liable to town tax.

Moneys received from water rents, how applied.

294. SEC. 10. That the said water commissioners 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; *provided*, that no regular salaries or commissions shall be allowed or paid by said water commissioners, without having been first by them submitted to and approved of by the board of commissioners or other governing power of said town.

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

296. 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, 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 costs; which sum shall be collected in the same manner as is provided in the charter of such town for the collection of fines, and shall be paid over to said water commissioners.

297. 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 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.

298. SEC. 14. That it shall be the duty of the board of commissioners or other governing power of such town, from time to time, at the request of the said water commissioners, to issue the bonds of said town for an amount not exceeding in the whole, the sum of sixty thousand dollars; these bonds shall bear a rate of interest not exceeding six per centum per annum, payable semi-annually, the principal thereof to be payable in thirty years from the date thereof, or sooner, at the option of the said town; it shall be the duty of the treasurer of said town to make sale of the bonds so issued as aforesaid at not less than their par value, and to pay the proceeds of said sales to said water commissioners, to be by them appropriated 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.

299. 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.

300. 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 purchase of the bonds issued therefor, if the same can be obtained at reasonable rates, or, if that cannot be effected, then to be safely invested by commissioners of the sinking fund of the said town, if any there be, and if none, then by the said governing body, and allowed to remain as a sinking fund, to be applied to the payment of the bonds at maturity.

301. SEC. 17. That the said board of water commissioners shall, on or before a certain day in each year, to be fixed by said town, 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 water and water rents, and of the deficiency, if any, of such receipts for the payment of such expenditures, and such water commissioners shall report the same in writing, to said board of commissioners or other governing power of said town, and said deficiency said town 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.

Proceedings in case receipts are less than expenditures.

Deficiency to be raised by tax.

302. SEC. 18. That it shall be the duty of the said board of commissioners or other governing power of said town to add to the sum so reported three per centum to cover losses and contingencies, and to assess such sum so increased upon all the taxable property in said town in the same manner as other taxes are assessed, and said taxes shall be collected by the collector and other officers of said town who are, by law, required to collect taxes, and if not paid at the time required by law for the payment of other town taxes, shall be collected by warrant and by and in the same manner as other taxes are collected in said town, and shall be a lien upon the property whereon the same are assessed in like manner.

May assess additional sum to cover losses and contingencies.

303. SEC. 19. [Amended by Sec. 308, *post.*]

304. SEC. 20. That this act shall take effect immediately, but its provisions shall remain inoperative in any town in this state until assented to by a majority of the legal electors thereof voting at an election to be held in said town, at any time to be fixed by the board of commissioners or other legislative body of said town, of which election the town clerk of said town 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 said town, and published in one or more newspapers printed therein, for at least six days previous to the day of such election; and said clerk shall provide for each elector voting at such election, ballots, to be printed or written, or partly printed and partly written, on which shall be either the words "for the adoption for this town of the provisions of an act entitled 'An act to enable towns to supply the inhabitants thereof with pure and wholesome water,'" or "against the adoption for this town of the provisions of an act entitled 'An act to enable towns to supply the inhabitants thereof with pure and wholesome water:,'" that the polls for such election shall be held at the usual places of holding the annual charter election in said town, and shall be opened at one o'clock in the afternoon and closed at six o'clock in the afternoon, and such election shall be conducted by the proper election officers of said town for the time then being, and in the manner as may then be prescribed by the ordinance of said town regulating elections therein, and such officers shall return to the board of commissioners or other legislative body of said town a true and correct statement, in writing, under their hands, of the result of said election, the same to be entered at large upon the minutes of said body.

Provisions of act inoperative unless assented to by majority of the legal electors thereof.

305. SEC. 21. That it shall not be lawful for any town, corporation or board of water commissioners or any other person or persons availing themselves of the provisions of this act or any supplement or amendments thereto, to sell or dispose of in any way any of the rights, privileges and franchises given, and the water thereof acquired, to any other town, borough, village, city or corporation within this state, except the said corporation shall be located within said town or township wherein said town is located, and that it shall not be lawful to convey any of said waters beyond the limits of this state or sell or dispose of any of their rights, privileges and franchises to any person or persons or corporations for such purpose.

Unlawful to sell or dispose of any rights, privileges, &c., to any person, town, &c.

306. SEC. 22. That this act shall not apply to any municipality of this state not named as a town in its act of incorporation. [See Sec. 307, *post.*]

To what municipalities act shall not apply.

Supplement.

P. L. 1885, p. 54.
Provisions of act
extended.

Passed March 9, 1885.

307. SEC. 1. That the provisions of the act to which this is a supplement, be extended and applied to all incorporated boroughs, camp meeting associations and other municipal commissions in this state, by whatever name they may be designated in their act of incorporation.

308. SEC. 2. That section nineteen of the act to which this is a supplement [see Sec. 303, *ante*] be and the same is hereby amended so that the same shall read and be :

Commissioners
to keep funds in
bank.

[That it shall be the duty of said water commissioners to keep all funds which may come in their hands on deposit with one or more of the banks located in said town, borough, camp meeting association and other municipality, and in case there are no banks in said town, borough, camp meeting association or other municipality, said funds shall be deposited in such bank or banks as may be designated by said board of commissioners or other governing body of such town, borough, camp meeting association or other municipality, and they shall draw said funds by checks upon said bank or banks, to be signed by at least two of their number, which said checks shall specify briefly the purposes for which the same are drawn, and the said water commissioners shall keep accurate accounts of their receipts and disbursements, in proper books, to be provided by them for that purpose, and which shall always be open for the inspection of the commissioners or other governing power of said town, borough, camp meeting association or other municipality and their authorized agents, and which accounts shall be annually in the month of March, audited by a committee of said board of commissioners of said town, borough, camp meeting association or other municipality, and a short abstract thereof shall be published with the annual statement of the town finances ; every water commissioner, at the expiration of his term of office, shall deliver to his co-commissioners all books and papers which he may have in his possession or custody by virtue of his said office ; and all books and paper of said water commissioners, which are no longer currently needed by them, shall be deposited with the clerk of said town, borough, camp meeting association or other municipality, who is hereby required to keep them safely in his office, but with liberty to said water commissioners at all times to examine the same in said clerk's office ; *provided*, nothing in this act shall be construed to apply to towns and boroughs having special acts.]

How drawn.

Accounts to be
kept, &c.

Proviso.

Supplement.

P. L. 1887, p. 37.

Approved March 17, 1887.

309. SEC. 1. [Amended by Sec. 323, *post*.]

Commissioners
to issue bonds for
additional sum.

310. SEC. 2. That should the legal electors of such town, incorporated borough, camp meeting association or other municipal commission at such election vote an additional sum for such water works, that it shall be the duty of the board of commissioners or other governing board or body of such town, incorporated borough, camp meeting association or other municipal commission to issue the bonds of said town, incorporated borough, camp meeting association or other municipal commission for said sum, said bonds to bear a rate of interest not exceeding the legal rate, payable semi-annually, the principal thereof to be payable in thirty years from the date thereof, or sooner, at the option of said town, incorporated borough, camp meeting association or other municipal commission, and it shall be the duty of the treasurer, or other disbursing officer thereof to make sale of the bonds so issued at not less than their par value, and to pay the proceeds of said sales to said board of water commissioners, to be by them appropriated according to the provisions of said act.

Duties of
treasurer.

Water commis-
sioners may
purchase streams
of water, wells,
&c.

311. SEC. 3. That it shall be lawful for such board of water commissioners, when in their opinion they shall deem it advisable, either before the construction of said water works or at any time thereafter, to purchase any stream or streams of water, well or wells of water, or reservoirs, aqueducts, apparatus, works, establishments or fixtures, or system or partial system of water works with the appurtenances thereto belonging or

attached, owned by any person or persons or corporation, and the same to consolidate with and form part of the water works system of such town, incorporated borough, camp meeting association or other municipal commission; *provided, however*, that such proposed purchase and the terms thereof shall be first reported by such board of water commissioners to the board of commissioners or other governing board or body of such town, incorporated borough, camp meeting association or other municipal commission, and such purchase shall be ratified and directed by such board of commissioners or other governing board or body.

Proviso.

Supplement.

Approved March 17, 1887.

P. L. 1887, p. 40.

312. SEC. 1. That in any incorporated town where water works have been constructed pursuant to the provisions of the act to which this is a supplement, the water commissioners may extend the water pipes through any street of said town not before supplied with water by said water works, and such portion of the moneys received from the water rents and prices paid for the use of water as may remain after paying all expenses for 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 expenses of such extension, and next to the payment of the interest upon the debt created for the construction of the works, if any there be; *provided*, no such extension or appropriation shall be made without having been first submitted to and approved by the board of commissioners or other governing body of said town.

Commissioners
may extend
water pipes.Water rents,
how applied.

Proviso.

A supplement to an act entitled "An act to enable incorporated towns to construct water works for the extinguishment of fires, and supplying the inhabitants thereof with pure and wholesome water," approved March fifth, one thousand eight hundred and eighty-four, and the various amendments thereto.

Approved March 28, 1892.

P. L. 1892, p. 315.

313. SEC. 1. That section two of the act to which this is a supplement [see Sec. 286, *ante*] be amended so as to read as follows:

[That the said water commissioners, and every of them, appointed under the provisions of this act, before entering on the discharge of their duties prescribed by this act, shall severally take and subscribe before the clerk of said town, who is hereby authorized to administer the same, an oath or affirmation, faithfully and impartially to discharge all the duties imposed on them by this act, which said oath or affirmation shall be filed in the office of the clerk of said town; and further, before entering upon the discharge of the duties prescribed by this act, each of said water commissioners shall repair to the board of commissioners or other governing body of said town, and enter into bond to the said town by its corporate name, with two freehold securities to be approved of by the commissioners or other governing power of said town, in such sum not less than three thousand dollars, as the said board of commissioners or other governing power may direct, conditioned for the true and faithful performance of all duties of the said office of water commissioner; no water commissioner shall be interested or concerned, directly or indirectly, in any contract or agreement for furnishing labor or materials in the erection or repair of the works authorized by this act, which said water commissioners may make or cause to be made; but each of said water commissioners shall be entitled to receive, out of the revenues arising from said works and created by this act, the sum of one hundred dollars each year for his services as such water commissioner.]

Commissioners
to take oath and
give bond.

Compensation.

A further supplement to an act entitled "An act to enable incorporated towns to construct water works for the extinguishment of fires, and supplying the inhabitants thereof with pure and wholesome water," approved March fifth, one thousand eight hundred and eighty-four, and enlarging the powers and authority of the commissioners appointed under said act.

Approved February 8, 1893.

P. L. 1893, p. 16.

Governing body may provide by ordinance for control and management of sewer system.

314. SEC. 1. That in all incorporated towns in this state, wherein a system of water works has been or shall be erected and put in operation under the provisions of an act entitled "An act to enable incorporated towns to construct water works for the extinguishment of fires and supplying the inhabitants thereof with pure and wholesome water," approved March fifth, one thousand eight hundred and eighty-four, and commissioners have been or shall be appointed and acting pursuant to the terms of said act, and in which a system of sewers has been or shall hereafter be constructed and put in operation under the laws of this state, it shall be lawful for the board of commissioners or other governing body of such incorporated towns to provide by ordinance or resolution, that the water commissioners appointed under the provisions of the act above recited shall take the control, charge and management of the sewer system of said town, and upon entering upon the discharge of their duties under this act, shall have power to authorize connections to be made therewith, and to establish rents for such connections and for the use of the said sewer system, and the time of payment thereof, as they may deem proper; and in their care and management of the said sewer system shall be governed by the same rules and regulations as are provided in the act above recited for the care and government of the water system of said town, so far as the same shall be applicable thereto.

Commissioners authorized to prescribe rules and have power to employ laborers, &c.

Proviso.

315. SEC. 2. That said water commissioners, after the passage of such ordinance or resolution, shall have authority to prescribe such rules, regulations, conditions and restrictions as to the connection with and use of the said sewer system as in their opinion may be proper or necessary, and shall have power to employ suitable and proper laborers, workmen, clerks, collectors and assistants in the conduct, management and care of said sewer system upon such terms as they may deem reasonable; *provided,* that no regular salaries shall be allowed or paid by said water commissioners to any employe until the agreement therefor shall have been first submitted to and approved by the board of commissioners or other governing body of said towns.

Rents draw interest from time due until paid, and are lien on premises.

316. SEC. 3. That the rents for connections with and use of the said sewer system so fixed by the said water commissioners, shall draw interest from the time they become due, and shall be and remain, until paid, a lien upon the premises with which such sewer system shall be connected; and said water commissioners shall have similar remedies for the collection of said rents, with interest and costs, as the said towns have by law for collecting the expense of paving sidewalks in front of lots required to be paved in said towns, which remedies it shall be the duty of said water commissioners to enforce in all cases where the sewer rents shall be more than two years in arrear.

Estimate to be made of cost of managing sewer system annually.

317. SEC. 4. That the said water commissioners shall cause a careful estimate to be made of the cost of managing, keeping in repair, and operating the said sewer system once in each and every year, and estimate approximately the rents to be collected therefrom, for the ensuing year, and shall report the same in writing to the board of commissioners or other governing body of said towns on the first Monday of April, each and every year.

In case of deficiency, three per centum to be added and assessed upon property.

318. SEC. 5. That in case of any deficiency from the revenue of said sewer system to meet the expenses thereof and the principal and interest on the bonds issued to construct the same, as they may become due, then it shall be the duty of the board of commissioners or other governing body of said towns to add to such deficiency so reported three per centum of the

cost of managing and keeping in repair and operating the said sewer system, to cover losses and contingencies, and to assess such deficiency and said three per centum so added as aforesaid, upon all the taxable property in said town in the same manner as other taxes are assessed, and said sums shall be collected by the collector and other officers of said towns, who are by law required to collect taxes, and if not paid by the time required by law for the payment of other town taxes, shall be collected by warrant, and by and in the same manner as other taxes are collected in said towns, and shall be a lien upon the property whereon the same are assessed in like manner as other taxes of the said towns.

319. SEC. 6. That it shall be the duty of the said water commissioners to keep all funds which may come to their hands on deposit with one or more of the banks located in said towns, and they shall draw said funds by checks to be signed by at least two of their members, which said checks shall specify briefly the purposes for which the same are drawn.

Funds deposited
in local banks, &c.

320. SEC. 7. That it shall be the duty of the said water commissioners to keep an accurate account of the receipts and disbursements connected with said sewer system in proper books to be provided for that purpose, and which shall always be open for the inspection of the board of commissioners or other governing body of said town, and their authorized agents, and which accounts shall be annually, in the month of March, audited by a committee of said board of commissioners or other governing body and a short abstract thereof shall be published with the annual statement of the town finances.

Receipts and dis-
bursements to be
kept open to
inspection, &c.

321. SEC. 8. That in addition to the amount which the said water commissioners are now entitled by law to receive, they shall receive and be paid as full compensation for all time, attention, trouble, and labor bestowed by them upon said sewer system, the sum of fifty dollars each per year.

Additional com-
pensation of
water commis-
sioners.

322. SEC. 9. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

Repealer.

An act to amend an act entitled "A further supplement to an act entitled 'An act to enable incorporated towns to construct water works for the extinguishment of fires, and supplying the inhabitants thereof with pure and wholesome water,'" passed March fifth, one thousand eight hundred and eighty-four, which said supplement was approved March seventeenth, one thousand eight hundred and eighty-seven.

Approved March 14, 1893.

P. L. 1893, p. 264.

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

[That whenever the board of water commissioners of any town, incorporated borough, camp meeting association, or other municipal commission of this state shall find that said sum of sixty thousand dollars, provided for in the act of which this is a supplement, is insufficient for the purpose of constructing and fully completing said water works, or that the water works and reservoirs, aqueducts, apparatus, erections, works, establishments and fixtures for supplying water of any such town, incorporated borough, camp meeting association, or other municipal commission are inadequate to furnish a sufficient amount of pure and wholesome water for the purpose designated in and contemplated by said act, that then the said board of water commissioners shall report said fact to the board of commissioners, or other governing body of such town, incorporated borough, camp meeting association, or other municipal commission, and it shall thereupon be the duty of such board of commissioners or other board or body to order and appoint an election of the legal electors thereof, to be held in such town, incorporated borough, camp meeting association, or other municipal commission, to determine whether an additional sum shall be raised for said purpose, and if so, what sum, not

Proceedings when
certain sum is
insufficient to
construct or
complete water
works.

exceeding, with the sum already appropriated, in the whole, three hundred thousand dollars ; of which election the clerk of such town, incorporated borough, camp meeting association, or other municipal commission 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 town, incorporated borough, camp meeting association, or other municipal commission, and published in one or more newspapers printed therein at least six days previous to the day of said election, and said clerk shall provide for each elector voting at such election, ballots to be printed or written, or partly printed and partly written, on which shall be either the words, "for an additional appropriation for water-supply under the provisions of the act entitled 'An act to enable incorporated towns to construct water works for the extinguishment of fire, and supplying the inhabitants thereof with pure and wholesome water,' and the supplements thereto, \$———," or "against an additional appropriation for water-supply under the provisions of the act entitled 'An act to enable incorporated towns to construct water works for the extinguishment of fire, and supplying the inhabitants thereof with pure and wholesome water,' and the supplements thereto ;" and that the polls for such election shall be held at the same places, and shall be opened and closed at the same hours, and such election shall be conducted by the same officers, and in the same manner, and such officers shall return a statement of the result of such election, which shall be entered in the same manner as is prescribed and provided for in the twentieth section of the act of which this is a supplement.]

IV. Miscellaneous acts.

An act to secure uniformity in the time of holding annual elections in the different wards of the towns of this state.

P. L. 1878, p. 318.

Approved April 5, 1878.

Time for holding elections in wards of certain towns.

324. SEC. 1. That whenever, in the formation of a new ward in any of the towns of this state, the time for holding the annual election in such ward shall have been fixed on a day other than the day of holding such election in the other wards of such town, that the time for holding such election in such new ward shall be and hereby is changed to the same time and day on which the annual election is held in the other wards of said town ; *provided, however,* that the provisions of this act shall not apply to counties having more than forty thousand inhabitants nor less than twenty-five thousand inhabitants.

Proviso.

An act to enlarge the powers of the boards of commissioners of certain of the towns of this state.

P. L. 1882, p. 80.

Approved March 9, 1882.

Preamble.

WHEREAS, Heretofore, sundry acts of the legislature of this state have been approved and are now in force for the improvement of certain of the towns and villages of this state, and authorizing the election of boards of commissioners in said towns, with certain corporate powers, which have been, by said several acts, conferred upon the respective boards of commissioners of said several towns, which power it is deemed expedient to enlarge ; therefore,

325. SEC. 1. That the boards of commissioners of any such towns shall have power to procure and supply to their several and respective towns, lights for lighting their respective streets and water from fire hydrants, or otherwise, for the suppression of fires, and may purchase such engines, hose and other apparatus for this purpose as they may severally deem necessary, and may contract and organize fire departments for their respective towns, and may make all needful rules and regulations touching the matters aforesaid that are not in violation of the constitution and laws of this state.

Board of commissioners empowered to light streets and purchase engines, hose, &c.

326. SEC. 2. That to effectuate the objects and purposes aforesaid, the said several boards of commissioners may make contracts with any person, company or corporation for the supplying of such lights and of such water; *provided, however,* that any such contracts shall be terminable at the pleasure of any such board of commissioners at the end of any year from the making or renewal of the same, and that the costs and expense thereof shall be paid out of such money as the said several boards are now authorized by law to raise, demand and receive, and that no debt, by reason of any such cost and expense, shall be created exceeding the clear annual income of the respective boards of commissioners as aforesaid.

Boards may make contracts for the supplying of light and water.
Proviso.

An act relative to the appropriation of money devoted to the sinking fund of certain towns in this state.

Approved March 23, 1883.

P. L. 1883, p. 191.

WHEREAS, Certain towns in this state have, in pursuance of acts of the legislature, issued bonds, and have established sinking funds in conformity therewith for the redemption thereof; *and whereas,* it may happen that there be money in the said fund to meet the payment of such bonds and interest, or a part thereof, before the maturity of the same; therefore,

Preamble.

327. SEC. 1. That it shall be lawful for the common council or governing body of such town having charge of such sinking fund, and which was created for the payment of such bonds issued by authority of law, to cancel all bonds which they may be able to procure by purchase, at a price not exceeding their par value, and in case the holders thereof refuse to redeem or dispose of the same before maturity, and a surplus remains in said fund, then it shall be lawful for such common council or governing body to invest such surplus in bonds issued in pursuance of law by the trustees of any school district lying within the corporate limits of such town, and to hold the same for the use and benefit of such sinking fund; *provided,* that such bonds become due and payable at or before the maturity of the bonds for which such sinking fund was established.

Town authorities having charge of sinking fund may purchase and cancel bonds before maturity, &c.

Proviso.

An act concerning incorporated towns in this state and certain officers thereof.

Approved May 9, 1884.

P. L. 1884, p. 326.

328. SEC. 1. That the town council or other governing body of every incorporated town in this state shall have power to pass, alter, amend and repeal ordinances for the following purposes:

Governing body of incorporated towns may pass ordinances for certain purposes.

I. To manage, regulate, protect and control the finances and property of the town;

II. To make and adopt an assessment map or maps whereby to describe lands assessed for taxes or improvements;

III. To ascertain and establish the boundaries of all streets, highways, public lanes and alleys in the town, and to prevent and remove all encroachments upon such streets, highways, lanes and alleys;

IV. To regulate, clean and keep in repair the streets, highways and public places of the town, and to prevent and remove obstructions and incumbrances in and upon all streets, highways and public places;

V. To provide for and enforce the removal of snow and ice from the sidewalks and gutters of streets by the owners of the lands fronting thereon; and such ordinance may provide, in case of the neglect or refusal of or by the owner of any lot of land fronting on a public street or highway to remove snow or ice from the sidewalks or gutters in front of his lands, that the town council may cause the same to be done at the expense of such owner, and that the expense thereof may be assessed as a tax upon such lands and be collectible as general taxes are collected;

VI. To provide for the lighting of the streets, highways and public places of the town;

VII. To provide for and regulate hydrants and cisterns in the streets and public places;

- VIII. To name and number the streets, houses and lots in the town ;
- IX. To prevent the driving of cattle and other animals through any of the streets of the town on the first day of the week, commonly called Sunday, and to regulate the same at other times ;
- X. To prevent and punish immoderate driving or riding through the streets ;
- XI. To prevent the driving of wagons or other vehicles on the sidewalks except where necessary to cross the same ;
- XII. To regulate and prohibit any practice having a tendency to frighten animals or annoy persons passing in the streets of the town ;
- XIII. To regulate or prohibit all public performances and exhibitions for money ;
- XIV. To locate, regulate or prohibit slaughter-houses ;
- XV. To regulate or prohibit the blasting of rock within the town ;
- XVI. To prescribe the manner in which persons or corporations shall exercise any privilege granted to them in the use of any street or highway in the town or in digging up any street or highway for any purpose whatever ;
- XVII. To abate and remove nuisances of every kind ;
- XVIII. To prevent vice and immorality, to preserve public peace and good order, to prevent and quell riots, disturbances and disorderly assemblages ;
- XIX. To restrain and suppress disorderly and gaming-houses and houses of ill-fame ;
- XX. To restrain and punish drunkards, vagrants, mendicants, tramps and beggars ;
- XXI. To regulate interments of the dead within the limits of the town ;
- XXII. To regulate the construction and cleaning of privies and cess-pools ;
- XXIII. To establish and regulate one or more public pounds and to restrain and regulate the running at large of horses, cattle, swine and other animals, geese and other poultry, and to authorize the impounding and sale of the same for the penalty incurred and for the costs of keeping and impounding ;
- XXIV. To regulate or prohibit the keeping of swine, geese and goats ;
- XXV. To regulate and prevent the running at large of dogs, and to authorize the destruction of dogs running at large ;
- XXVI. To regulate or prohibit swimming or bathing in the waters of or bounding the town ;
- XXVII. To establish, regulate and control a day and night police and to regulate and define the manner of their appointment and removal, their duties and compensation ;
- XXVIII. To regulate and control the manner of building dwelling-houses and other buildings ; to take down, remove or destroy buildings that are liable to fall or are dangerous to life ; to regulate or prohibit the carrying on of manufactures dangerous in causing or promoting fires ; to regulate or prohibit the manufacture, sale, keeping, storage or use of fire-works, gunpowder, camphene, kerosene, burning-fluid, nitro-glycerine, dynamite or other inflammable or explosive materials ; to regulate or prohibit the use of firearms ; to raze and demolish any building or erection when necessary to prevent the extension of a conflagration, and to provide for the ascertainment and payment of just compensation to owners of property destroyed in such cases ;
- XXIX. To prescribe and define the duties of officers and employes of the town and their compensation where compensation is not fixed by law, and the penalty for the failing to perform such duties, which penalty may extend to removal of the offender from office ; *provided*, that nothing in this act shall be construed to alter or repeal the provisions of any town charter fixing the term of office of any municipal officer ;
- XXX. To erect, provide, repair and control a town hall and such police and station-houses and other buildings as may be required ;

XXXI. To fix the penalty, where the same is not fixed or provided for by this act, for the violation of any ordinance by this act authorized to be passed, which penalty may be imprisonment not exceeding ten days in the county jail or workhouse or a fine not exceeding fifty dollars; all prosecutions for the violation of any ordinance shall be made before the recorder or police justice of the town, or if there be none, then before a justice of the peace therein;

XXXII. To divide wards and designate their boundaries.

329. SEC. 2. That the town council of every incorporated town in this state shall have power to appoint a town treasurer, who need not be a member of the town council, who shall hold his office for one year and until his successor has been appointed and qualified; he shall give bonds in such amounts and with such sureties as shall be prescribed by ordinance of the town council, conditioned for the faithful performance of his duties; he shall receive all moneys due to or belonging to the town, and shall deposit and keep the same as directed by the town council; he shall keep an account of all receipts and expenditures in such manner as the town council shall direct; he shall pay out moneys only upon warrants of the town council, signed by their chairman or mayor of the town and countersigned by the town clerk, and no warrant shall be so drawn except in pursuance of an order of the town council, passed at a stated meeting and entered on the journal; he shall furnish statements of his accounts as often as he shall be required by the town council, and shall perform such other duties appertaining to his office as shall be required of him by law or by any ordinance or resolution of the town council; *provided, however,* that nothing in this section contained shall apply to moneys raised for school purposes.

Town treasurer,
appointment of,
&c.

Proviso.

330. SEC. 3. That the town treasurer shall receive, keep and disburse all moneys raised and received for public school purposes; he shall keep separate accounts thereof, and shall pay the same out only on the warrant of the board of education or board of school trustees; he shall furnish said board, as well as the town council, whenever so required, a statement of the receipts and expenditures for school purposes.

Duties of town
treasurer.

331. SEC. 4. That any councilman or other town officer may be removed from office by resolution of the town council; *provided,* that no such removal shall be made until the officer sought to be removed has had an opportunity to be heard in his defense, nor unless two-thirds of all the members of the council vote therefor; whenever any such removal shall be made, the cause therefor, together with the yeas and nays upon the vote taken, shall be entered at large on the minutes of the town council.

Removal of
officers.

Proviso.

332. SEC. 5. That, in addition to the duties imposed upon him by the laws of this state, it shall be the duty of the collector or receiver of taxes to be at the town hall of the town in which he holds his office for the purpose of receiving and collecting taxes and arrears of taxes, on such days and at such hours as shall be designated by the town council; he shall enter in suitable books, to be provided for that purpose by the town council, the sums received by him for taxes; and he shall specify in such entry the names of the persons from whom or on whose account moneys are paid, and the date of payment, and the sums respectively paid by them for taxes and for interest separately; he shall, at least once in each week, furnish the treasurer a detailed statement of such sums so received by him, which statement the treasurer shall lay before the town council at its next stated meeting thereafter; he shall, at least once in each week, and oftener if required, pay over to the town treasurer all moneys received by him for or on account of the town from any source whatever, and it shall be the duty of the town treasurer, out of the moneys so received by him, to first pay the state school, state and county taxes as required by law.

Duties of col-
lector or receiver
of taxes.

333. SEC. 6. That the qualified voters of the several incorporated towns of this state shall have power to raise in each year, by vote, at the annual town meeting or charter or municipal election, such sum or sums of money as they shall deem expedient for the following purposes:

Voters of town
empowered to
raise money for
certain purposes.

I. For lighting the streets of the town;

- II. For the maintenance and support of the poor ;
- III. For regulating, cleaning and keeping in repair the streets and highways and the construction of crosswalks ;
- IV. For the support of the public schools ;
- V. For the support of the police department ;
- VI. For the support of the fire department ;
- VII. For water for the extinguishment of fires ;
- VIII. For the payment of interest upon the debt of the town and such part of the principal as may be due and payable ;
- IX. For the sinking fund required to be raised during the year ;
- X. For the salaries of officers not included under any other head ;
- XI. For the purchase of necessary real estate and the erection of buildings ;
- XII. For the contingent expenses of the town ;
- XIII. But no appropriation shall be raised or ordered except by a majority of all the voters voting at such election.

Act not to apply to incorporated city.

Town may borrow money temporarily in anticipation of appropriated revenues.

334. SEC. 7. That this act shall not apply to any incorporated city of this state.

335. SEC. 8. That the council or other governing body of any such incorporated town shall have power to borrow money, temporarily, in the name of such incorporated town, in anticipation of appropriated revenues, not exceeding the amount of such anticipated revenues so appropriated.

An act to authorize the issue of bonds for the erection or rebuilding of public buildings destroyed by fire and purchase of fire apparatus.

Passed March 10, 1885.

P. L. 1885, p. 77.

Towns whose public buildings have been destroyed by fire, may issue bonds.

336. SEC. 1. That in any incorporated town in this state, having more than five thousand inhabitants, as shown by the last census, where buildings for the use of its government and fire department have existed and been maintained, and where the same have been destroyed by fire, it shall be lawful for the common council, town committee, or other governing body of such town, to raise money by the issue of bonds for the purpose of erecting, providing and properly furnishing suitable buildings for the uses and purposes of the town 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.

Form of bonds.

337. 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, and shall be of denominations 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 cent. per annum, payable semi-annually in the months of January and July.

Principal and interest to be raised by tax.

338. 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, 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 for the liquidation of the principal of said bonds when due.

Repealer.

339. 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.

An act authorizing towns to change the width of streets in certain cases.

Approved February 13, 1888.

P. L. 1888, p. 25.

Width of streets or sections of streets, how changed.

340. SEC. 1. That it shall be lawful for the council or other governing board of any town in this state having the power to open and improve streets, to change, by ordinance, the width of any street or section of street.

in such town, where the same has been established and laid down on the official map of the town, and where such street or section of street has not been opened or dedicated to public use; *provided, however*, that the owners of a majority of the land fronting on the street so proposed to be changed shall petition in writing for the passage of such ordinance.

Proviso.

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

Repealer.

An act to increase the powers of boards of commissioners.

Approved February 21, 1888.

P. L. 1888, p. 83.

342. SEC. 1. [Amended by Sec. 343, *post.*]

Amendatory act.

Approved May 7, 1889.

P. L. 1889, p. 382.

343. SEC. 1. That section one of the act entitled "An act to increase the powers of boards of commissioners," approved February twenty-first, one thousand eight hundred and eighty-eight, be and the same is hereby amended so that the same shall read as follows:

[That in all towns in this state where the governing power has been committed to a board of commissioners elected annually by a vote of the freeholders or the legal voters of such town, such board of commissioners shall, in addition to the powers now vested by law in them, hereafter have the power to pass, alter, amend and repeal ordinances for the following purposes:

Boards of commissioners empowered to pass ordinances for certain purposes.

I. To prevent and suppress breaches of the peace and disorderly assemblages, and to define and suppress disorderly houses in said town;

II. To provide for a board of health to act in case of the prevalence of epidemic diseases;

III. To abate and cause the removal of nuisances, and, at the expense of the owner or occupant, the cleansing and disinfection of premises where nuisances are maintained detrimental to health;

IV. To compel the owner of abutting lands to pave or flag sidewalks, and upon the refusal or neglect of such owner to comply with such ordinance, to cause the same to be done at the expense of such owner, said boards of commissioners being hereby empowered to recover such cost or expense of such owner in an action of debt in any court of competent jurisdiction;

V. To compel the owners or occupants of abutting lands to keep the sidewalks and gutters free from snow and ice and other impediments, and to keep the said sidewalks in a safe, convenient and passable condition at all seasons;

VI. To regulate and prevent the dumping or throwing of waste matter, ashes or garbage in the public streets or on lands belonging to or under control of the public;

VII. To license and regulate public hacks, carriages, carts, trucks and other vehicles used for hire;

VIII. To license and regulate peddlers, hucksters and other street vendors, and all circuses or other shows and exhibitions whatsoever proposed to be performed or exhibited within the limits of said town;

IX. To establish, regulate and control a day and night police, and to regulate and define the manner of their appointment and removal, their duties and compensation;

X. To fix the penalty for the violation of any ordinance authorized by this act or other acts now in force applicable to the powers of such board of commissioners, which may be passed by said boards, which penalty may be imprisonment in the county jail not exceeding ten days, or a fine not exceeding fifty dollars, or both; all prosecutions for the violation of any ordinances so authorized shall be made before any justice of the peace residing within the limits of said town, jurisdiction being hereby conferred.]

An act regulating appeals from special assessments in towns governed by a board of commissioners where an appeal has been heretofore given to three chosen freeholders.

P. L. 1888, p. 181.

To whom appeal shall lie and be determined.

Approved March 21, 1888.

344. SEC. 1. That where, in the act incorporating any town governed by a board of commissioners, or in any supplement to such act, an appeal from any special assessment has heretofore been given to any three chosen freeholders of the county in which said town is located, an appeal shall only lie hereafter to and be determined by three persons, residents of the county in which such town is located, who shall be appointed by any justice of the supreme court of this state, either in term time or vacation; which appointment shall be made upon the application of the party appealing, who shall give such board of commissioners five days' notice, in writing, of the time, place and purport of such application.

Repealer.

345. SEC. 2. That any provision contained in any act of incorporation or any supplement thereto referred to in the first section of this act, inconsistent with said section, be and the same is hereby repealed.

An act authorizing incorporated towns to provide for changing the width and boundaries of streets and avenues.

P. L. 1889, p. 377.

Governing body may alter map or plan establishing boundaries of streets and avenues.

Proviso.

Proceedings for effecting change in boundaries.

Approved May 7, 1889.

346. SEC. 1. That it shall be lawful for the council or governing body of any incorporated town in this state, in the manner hereinafter provided, to alter and amend any map or plan establishing the boundaries of streets and avenues therein by changing the width of any proposed street or avenue, or section of proposed street or avenue, which has not been opened to the width shown on such map; *provided, however,* that no street or avenue, or section of street or avenue, shall be made less in width than it was at the time of the adoption of any such plan or map.

347. SEC. 2. That on the petition in writing of the owners of one-sixth of the land fronting on any such street or avenue, or section thereof, setting forth the change desired, the council or governing body of such town shall direct the same to be published, together with a notice stating when and where the council or governing body of such town will meet to receive objections in writing thereto, in at least two newspapers printed and published in the county, for at least two weeks successively, at least once in each week, next preceding the time appointed for receiving objections; any owner of land fronting on the street or avenue, or section thereof, proposed to be changed, may, at the time specified in such notice, object in writing thereto; at the time so appointed the council or governing body of such town shall meet and shall examine all objections in writing which shall have been presented; and if it shall appear that the owners of a majority of the land fronting on the street or avenue, or section thereof, proposed to be changed have not objected thereto, the said council or governing body shall have power to pass and adopt an ordinance in conformity to the provisions of the first section of this act; and if it appear that the owners of a majority of such land have objected thereto, then such petition shall be dismissed.

Costs, how paid.

348. SEC. 3. That all costs and expenses incurred in the matter of such petition shall be paid by the petitioners.

Repealer.

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

An act providing for the publication of the minutes of official boards in incorporated towns.

P. L. 1892, p. 378.

Incorporated towns to have minutes of official boards published.

Approved March 30, 1892.

350. SEC. 1. That with a view to the furnishing of precise and accurate public information of the proceedings of the municipal boards of the incorporated towns in this state, it shall be lawful for the common council of any

incorporated town, where provision is not now made for reporting and publishing the official minutes, to have the minutes of the meetings of said common council and the other municipal boards of such incorporated town published in a daily newspaper printed and published within the limits of such town; *provided*, that the costs of such publication shall not exceed the rate of legal advertisements, as now regulated by law; *and further provided*, that the published minutes of every meeting shall contain a full copy of all ordinances presented at such meeting.

Proviso.

Proviso.

An act to regulate the publication of financial statements in incorporated towns.

Approved March 14, 1895.

P. L. 1895, p. 281.

351. SEC. 1. That where, by any existing law, the treasurer, auditor of accounts or other financial officer of any incorporated town is required to publish a monthly statement of the public finances in a newspaper circulated within said town, the said treasurer, auditor of accounts or other financial officer charged with the duty of publication shall publish all such financial statements in a daily newspaper; *provided*, there be a daily newspaper printed and published within any such incorporated town.

Statements shall be published in a daily newspaper.

Proviso.

352. SEC. 2. That the monthly financial statements required to be published as aforesaid shall be inserted in such daily newspaper within fifteen days after the end of the month covered by the same, and that this act shall take effect immediately.

Time for publication limited.

An act to enable certain municipal corporations of this state to fix the compensation of their recorder.

Approved March 20, 1895.

P. L. 1895, p. 367.

353. SEC. 1. That it shall and may be lawful for the common council, board of council, or other municipal governing bodies of any incorporated town, having a population according to the last census of not less than ten thousand, in counties of the first class of this state, incorporated or existing under and by virtue of any special act of incorporation and supplements thereto, to fix the salary of its recorder; *provided*, that the sum so fixed shall not exceed eight hundred dollars.

Governing body may fix recorder's salary.

Proviso.

354. SEC. 2. That all acts and parts of acts, whether general, special or local, inconsistent herewith, are hereby repealed.

Repealer.

Townships.

I. TOWNSHIP ACT OF 1846, WITH SUPPLEMENTS.

1. Townships incorporated.
2. Boundaries.
3. Process, how served.
4. Town meetings, when held.
5. Who entitled to vote.
6. Presiding officer chosen.
7. Preservation of order.
8. By-laws made.
9. To be recorded.
10. To provide for destroying noxious animals.
11. Power to raise money.
12. Election of officers.
13. Amended by section 56.
14. Repealed by section 57.
15. How notice given.
16. Clerk to keep minutes.
17. To certify appointments to county clerk.
18. How, if made by committee.
19. Oath of officers.
20. Certified and filed.
21. Refusal to serve.
22. Forfeited for refusal to serve.
23. Clerk's papers delivered to successor.
24. Certain sections to be read at town meeting.
25. Amended by sections 61 and 62.
26. One year's service to exempt.
27. Hour of meeting may be changed.
28. Surveyors in Cape May.
29. Money for education.
30. Abstract of ratables.
31. Repealed by section 38.
32. Who entitled to vote at town meetings.
33. Part of section 5 repealed.
34. Clerk may administer official oaths.
35. Oath of clerk.
36. Clerk to make out account of yearly expenses, &c.
37. Penalty for failure of clerk to make out account.
38. Compensation of township committee and clerk.
39. Overseers of poor to give bond.
40. Chosen freeholders to file accounts of expenses.
41. Duty of township committee.
42. Number of chosen freeholders in municipalities of certain counties.
43. Election, powers and duties.
44. Repealer.
45. Election of one overseer of the poor only.
46. Repealer.
47. Number of chosen freeholders in municipalities of certain other counties.
48. Election, powers and duties.
49. Repealer.