

No. 568

AN ACT

To reenact, amend and revise the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs."

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* "[903]," omitted in original.

** "[1018]," in original.

*** "[1103]," omitted in original.

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* "[1415]," omitted in original.

** "the," omitted in original.

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* "[1740]," omitted in original.

** "Improvement," in original.

*** "and," omitted in original.

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* "System," in original.

** "by," in original.

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* "Boroughs," in original.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 1 to 229 inclusive of the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," are hereby reenacted, revised and amended to read as follows:

Section 1. Be it enacted, &c., That the law for the government and regulation of boroughs is hereby *reenacted*, revised, amended, and consolidated as follows:

The Borough Code.

Sections 1 to 229, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE I PRELIMINARY PROVISIONS

*[SHORT TITLE]

Section 101. *Short Title.* **[That] This act shall be known and may be cited as "The [General] Borough [Act'] Code."

Section 102. *Excluded Provisions.*—This act does not include any provisions, and shall not be construed to repeal any acts, relating to:

(a) The assessment [of taxes] *and valuation of property and persons for the purposes of taxation and the collection of taxes.*

(b) The [procedure for the] collection of municipal claims by liens.

(c) The [amount and] method of incurring or increasing indebtedness.

(d) [Election officers and conduct] *Conduct* of elections.

[(e) Poor districts.

(f) Boards of Health.]

[(g) (e) Common schools.

[(h) (f) Borough and ward constables.

[(i) (g) Justices of the peace.

[(j) (h) The giving of municipal consent to public service corporations.

[(k) (i) State roads [State-aid roads] and private roads.

[(l) (j) Validations of elections, bonds, ordinances, and acts of corporate officers.

(k) *Free non-sectarian libraries.*

[(m) Crimes and offenses by borough officers.

(n) Zoning.]

(l) *Any of the provisions of the Penal Code.*

Section 103. *Construction of Act Generally.*—The

* "[Short Title]." omitted in original.

** "[That]." omitted in original.

provisions of this act, so far as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by this act of any act of Assembly, or part thereof, shall not revive any act or part thereof heretofore repealed or superseded, nor affect the corporate existence of any borough heretofore incorporated. The provisions of this act shall not affect any act done, liability incurred, or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of such repealed laws. All ordinances, regulations, and rules made pursuant to any act of Assembly repealed by this act, shall continue with the same force and effect as if such act had not been repealed. Any person holding office under any act of Assembly repealed by this act shall continue to hold such office until the expiration of the term thereof, subject to the conditions attached to such office prior to the passage of this act.

Section 104. Constitutional Construction.—The provisions of this act shall be severable and, if any of the provisions shall be held to be unconstitutional, such decision shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as a legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

Section 105. Construction of References.—Whenever in this act reference is made to any act by title, such reference shall also apply to and include any codification wherein the provisions of the act referred to are substantially reenacted.

Section 106. Boroughs to Which Act Applies.—This act shall apply to all boroughs incorporated under general law, and to all boroughs incorporated under special law which have accepted the provisions of the act of April third, one thousand eight hundred and fifty-one, (*Pamphlet Laws 320*), entitled “An act regulating boroughs,” and also to all boroughs incorporated since April third, one thousand eight hundred and fifty-one, by special act of Assembly which by the act of incorporation have been given the general powers of boroughs incorporated under the general law, and also to all boroughs incorporated under or which have accepted the provisions of, the act approved the fourteenth day of May, one thousand nine hundred and fifteen (*Pamphlet Laws [(three hundred and twelve)] 312*) entitled “An act providing a system of government for boroughs, and revising, amending, and consolidating the law relating to boroughs.” This act shall not annul or repeal

any local or special act in force at the date of the passage of this act, or any provision thereof, nor shall this act repeal any act so far as any such act applies to, or may have heretofore applied to, any boroughs incorporated under special *acts of Assembly and to which boroughs, as limited by the provisions of this section, this act does not apply.

The provisions of this act, in so far as similar provisions of the said act approved the fourteenth day of May, one thousand nine hundred and fifteen (Pamphlet Laws [(three hundred and twelve)] 312), were extended to boroughs acting under local laws, shall apply to such boroughs incorporated under local laws.

Section 107. Acceptance of Act by Boroughs and *Incorporated Towns*.—Any borough or incorporated town, incorporated or acting under any local or special act of Assembly, may surrender the provisions of its special *and local* acts in their entirety, or so far as they are inconsistent with this act, and be governed by the provisions of this act, by presenting a petition to the court of quarter sessions of the [proper] county setting forth the desire of such borough or incorporated town to accept the provisions of this act. The petition shall also set forth whether it is the desire of the petitioners to surrender all of the provisions of its special *and local* acts or to retain such provisions of its special *and local* acts as are not inconsistent with this act. Such petition shall be made by the burgess and council or by [twenty-five qualified] *at least ten per centum of the registered electors of the borough or incorporated town as of the date the petition is filed.*

Upon the presentation of the petition, the court shall fix a day for hearing, of which such notice shall be given as may be directed by the court. At such hearing any inhabitant of the borough or incorporated town may remonstrate against the granting of the petition, and the court may grant or refuse the petition *as to it appears just and proper.*

If the court **grant the petition, the decree *of the court* shall be recorded in the office for the recording of deeds, and thereafter the borough or incorporated town shall be subject to all the provisions of this act, and any such incorporated town shall become a borough and the local and special acts of Assembly in force in any such borough or incorporated town shall be annulled in their entirety, or so far as they are inconsistent with the provisions of this act, as may be set forth in the petition in the particular case. When any incorporated town accepts the provisions of this act, the

* "act," in original.

** "grants," in original.

decree of the court permitting such acceptance shall set forth the title of the new borough.

When any borough or incorporated town shall accept the provisions of this act, as provided by this section, all liabilities incurred, rights accrued or vested, obligations issued or contracted, and all suits and prosecutions pending or to be instituted to enforce any right or penalty accrued or punish any offense committed prior to such acceptance, and all ordinances shall continue with the same force and effect as if no such acceptance had been made.

Section 108. [When Act Goes Into Effect] *Effective Date.*—This act shall go into effect on the first day of July, one thousand nine hundred and twenty-seven. *This reenactment, revision, amendment and consolidation of the borough law shall become effective on the first day of July, one thousand nine hundred and forty-seven.*

Section 109. *Publication of Notices.*—Wherever, in any of the provisions of this act, notice is required to be given in one newspaper in the county, such notice shall be published in a general newspaper published within the limits of the borough [or district] affected, or if none is published therein, then in a general newspaper of the county or adjacent county circulating in such borough [or district] and, such notice shall also be published in the legal journal, if any, designated by the rules of court for the publication of legal notices and advertisements, when such notice refers to any proceeding in any court or the holding of elections for the increase of indebtedness or the sale of bonds, unless such publication [be] is dispensed with by special order of the court.

Section 110. *Terms of Existing Officers Saved.*—*This reenactment, revision, amendment and consolidation of the borough law shall not be construed as affecting or terminating the term of any officer of a borough holding office at the time the same becomes effective.*

Section 111. *Definitions.*—*As used in this act, unless the context clearly indicates otherwise, the following words and terms shall be construed as follows:*

“Corporate authorities” or “corporate officers” means the borough council even though the action taken is by ordinance which is subject to the approval or veto of the burgess.

“Street” means and includes any street, road, lane, court, alley and public square.

“Highway” means a State highway of the Commonwealth of Pennsylvania.

ARTICLE II

CREATION OF BOROUGHES

(a) Incorporation of Boroughs

Section 201. Towns and Villages [and Certain Townships of the First Class] May be Incorporated.—The courts of quarter sessions may incorporate any town or village or any two or more towns or villages [or any township of the first class having a population of eight thousand or more] within their jurisdiction into a borough. Every town or village [and every such township of the first class] or towns or villages so incorporated shall be a body corporate and politic by the name which shall be [given] decreed by the court.

Section 202. Applications for Incorporation.—The application for incorporation shall be [either] by a petition signed by a majority of the freeholders residing within the limits of the proposed borough, which signatures must be secured within three months immediately preceding the presentation thereof to the court. [or by petition presented by the township commissioners of a township of the first class having a population of eight thousand or more in pursuance of a resolution duly adopted thereby, a certified copy of which shall be presented to the court and filed with said petition.] *Such petition shall be subscribed by and sworn to by at least one of the signers. The number of signers required to the petition shall be ascertained as of the date the petition was presented to court.*

Section 203. Contents of [Application] *Petition*.—The [application] *petition* shall set forth the [title] name of the proposed borough, with a particular description of the boundaries thereof, exhibiting the courses and distances [in words at length,] and be accompanied with a plot of the same.

Section 204. Filing of [Application] *Petition*; Notice; Decree; Costs.—Upon presentation to the court, the [application] *petition* shall be filed with the clerk, and notice thereof shall be given in one newspaper in the county and in the legal journal, if any, for a period of not less than thirty days immediately [before the next regular term] following the filing thereof, during which time exceptions may be filed to the [application] *petition* by any person interested. *The notice shall be published once a week for four consecutive weeks. The notice shall state when and where the petition was filed and the time during which exceptions may be filed to the petition.* The court, [at said term] if it shall find, after hearing, that the conditions prescribed by this article have been complied with, may grant the prayer

of the petitioners and make a decree accordingly, but, if the court shall deem further investigation necessary, it may make such order thereon as to right and justice shall appertain. The [application] *petition* and decree shall be recorded in the recorder's office of the county, at the expense of the [applicants] *petitioners*, who shall also pay all other expenses and costs in connection therewith. [except, in cases where the township commissioners of any township of the first class having a population of eight thousand or more shall have instituted such proceedings of their own motion, all the costs and expenses of such proceedings or pertaining thereto shall be paid out of the general funds of the township.]

Section 205. When Borough Government Becomes Effective.—When the [application] *petition* and decree have been recorded, such [part of a township or townships] *town, village or towns or villages* shall become an incorporated borough, and shall be entitled to the several rights, privileges, and immunities conferred by this act, subject, however, to the provisions of section two hundred eleven of this act [as hereinafter amended].

Section 206. Exclusion of Farm and Unsettled Lands.—When, in any [application] *petition for the incorporation of a borough*, the boundaries fixed by the petitioners shall embrace lands exclusively used for the purposes of farming or other large and unsettled lands, the court may, if it deem such land does not properly belong to the proposed borough, at the request of [the] *any party aggrieved*, change the boundaries so as to exclude therefrom the land used for farming or such other purposes.

Section 207. Corporate Name.—The corporate name of boroughs incorporated under this act shall be "The Borough of"

Section 208. Requisites of Charter.—*The decree of the court shall constitute the charter of the borough.* All charters granted under this act shall set forth:

First. The corporate name of the borough.

Second. The boundaries thereof.

Section 209. Appeals to Superior Court.—An appeal to the Superior Court may be had *in the manner provided by law for appeals to said court* from any decree incorporating a borough [within three months from the date of such decree,] by [not less than three persons] *any person* aggrieved thereby.

Section 210. Certificates of Clerk of Court; Fees; Penalty.—[The] *When a borough is created, the clerk of the court of quarter sessions in each county within thirty days* shall certify to the Department of Highways

and to the Secretary of Internal Affairs [the establishment of all new boroughs within said county, certification to be made within thirty days after the establishment of] a copy of the decree of court incorporating such borough. For such services the clerk shall be allowed a fee of three dollars and fifty cents (\$3.50) to be paid as part of the costs of the proceeding.

[For each certification, furnished under the preceding provisions of this section, the clerk of the court of quarter sessions shall receive the sum of three dollars and fifty cents (\$3.50), to be paid by the State Treasurer upon warrant from the Auditor General out of moneys not otherwise appropriated.

The failure or neglect of any] Any clerk of the court who shall fail, neglect or refuse to furnish such [certification to the Department of Highways] certifications or either of them, as herein provided, shall [be deemed a misdemeanor and] upon conviction, [any such clerk shall be punished by] in a summary proceeding be sentenced to pay a fine of not more than fifty dollars. [(\$50).

The clerk of the court shall also furnish a certified copy of the final decree to the Secretary of Internal Affairs of the Commonwealth, for which service he shall receive a fee of one dollar *(\$1.00) to be paid as part of the costs of the proceeding.]

Section 211. Existing Government Preserved Temporarily; Organization of Borough.—The [charters of the] said town, village or towns or villages [or township of the first class, or whatever powers of government apply thereto,] shall continue [in full force and operation, and] to be governed as before said incorporation [all officers under the same shall hold their respective offices] until the first Monday of January following the municipal election next succeeding, occurring at least ninety days after the issuance of the final decree establishing such new borough, at which time the officers of said borough chosen, in accordance with section eight hundred five of this act, at [the preceding] such municipal election shall enter upon their respective terms of [service] office, and the borough government shall be duly organized under this act.

[Whenever in the organization of the borough government of any newly established borough any person is elected by council to any office for which this act provides a definite term and fixes a definite time for the election of persons thereto, the persons so elected shall serve only for such time as intervenes between his election and the next ensuing day fixed by this act for the election of such officer.]

*“(\$1),” in original.

Section 212. Marking Borough Boundaries.—The boundaries of the borough shall, as soon as practicable after its incorporation, be *appropriately* marked, due notice being first given to the commissioners and supervisors of adjoining townships and to the corporate authorities of adjoining municipalities.

(b) Consolidation of Boroughs.

Section 215. Adjacent Boroughs May Be Consolidated.—Whenever two or more boroughs, situate in the same county or in different counties, shall be adjacent and of compact territory they may be consolidated into one borough.

Section 216. Joint Agreement for Consolidation; Decree of Court.—Such consolidation shall be made under the following conditions:

(a) The councils of the boroughs may of their own initiative, or shall, within sixty days after each is requested in writing by at least [one hundred qualified] *ten per centum of the registered* electors of the respective borough, enter into a joint agreement, under the corporate seal of each borough, for the consolidation thereof into one borough. The joint agreement shall set forth the name of the new borough, the number of wards, if any, into which the borough is to be divided, *and the territorial boundaries thereof. Where such agreement provides for wards, if the consolidation becomes effective, two councilmen shall be elected in each ward.* It may also set forth such terms as have been agreed upon for the disposition of the assets of each of the boroughs, and for the liquidation of the indebtedness of each of the boroughs, either jointly, separately, or in certain defined proportions, and the adjusting and paying of the same by separate rates of taxation on all property subject to taxation within the boundaries of such boroughs respectively.

(b) If the councils are unable to effect such joint agreement within sixty days after each shall [be] *have been* requested so to do in writing as aforesaid, or if for any reason the councils fail to effect such joint agreement within said sixty-day period, the court of quarter sessions of the county or *of any of the counties* in which *any of said boroughs* are situate shall, if satisfied, after petition or petitions presented by at least ten per centum of the [qualified] *registered* electors of each borough and hearing held thereon, that the councils have failed, after being duly requested in writing as aforesaid, to enter into such joint agreement, enter a decree for an election to be held in said boroughs on the question of consolidation of said boroughs into one borough. [- the] *The* decree [to] *of the court shall* fix the date for such election, designate the name of the new bor-

ough (which name shall be as prayed for in the petition or petitions), the number of wards, if any, into which the *consolidated* borough is to be divided, the territorial boundaries thereof, *and for the election of two councilmen in each such ward*, and shall also set forth such terms as appear equitable, just and proper *to the court* for the disposition of the assets of each of the boroughs and for the liquidation of indebtedness of each of the boroughs, either jointly, separately, or in certain defined proportions, and the adjusting and paying of the same by separate rates of taxation on all property subject to taxation within the boundaries of such boroughs respectively.

The court shall direct the county [commissioners] *board of elections* to furnish to each election district in such boroughs the necessary ballots and supplies for such election.

On presentation of such petition or petitions, the court shall fix a date for hearing, which shall be held within thirty days from the date of presentation of the petition or petitions. Notice of the time and place of the hearing shall be given *by* the [president and] secretary of each of the boroughs at least fifteen days before the date fixed for the hearing *in such manner as may be provided by order of court*.

The petition or petitions, aforesaid, may be presented to court at any time after councils have failed to enter into a joint agreement in response to the written request aforesaid [within the sixty-day period aforesaid].

Section 217. [Election] *Elections* on Question of Consolidation.—The question of the consolidating of such boroughs shall be submitted to the vote of the [qualified] electors of each of the boroughs at a special election to be held on the day to be designated in the joint agreement or in the decree of court, as the case may be. *Such election shall be held on the day of any general, municipal or primary election*. The election shall be held by the legal election officers and in accordance with the provisions of the laws regulating general elections. [If such special election shall be ordered within ninety days of any general or municipal election, the election shall be held on the day fixed for the holding of such election.] Notice of such election shall be given [by proclamation by the high constables of the respective boroughs in the manner prescribed for proclamations for elections for municipal officers.] *in such manner as may be prescribed by the court*.

The election shall be by ballot, [which shall be marked "Proposed consolidation," and below shall be printed the words "For consolidation" and "Against consolida-

tion," and the elector shall designate with an "X" his desire to vote for or against such consolidation] *and the question to be submitted shall be framed by the county board of elections in the manner provided by the Pennsylvania Election Code.*

If the majority of the votes cast [for and against the proposed consolidation] *on the question submitted* at such election, in each of the boroughs, is in favor of the consolidation of the [two] boroughs, that fact shall be certified to the council of each of the boroughs by the [respective election boards or return judges,] *county board of elections* and the burgess and secretary of the respective boroughs shall cause a certification of the result to be endorsed upon the said agreement, if the councils have entered into an agreement or, if not, *then* on a certified copy of the decree of court.

Section 218. Agreement or *Certified Copy of Decree to be [Filed with Secretary of Commonwealth; Letters Patent] *Recorded; Effect Thereof.*—The agreement or a certified copy, *or copies* thereof, with all its endorsements, or a certified copy of the decree of the court of quarter sessions, with all its endorsements, shall be [filed in the office of the Secretary of the Commonwealth. Upon the filing thereof, the Governor shall cause letters patent to be issued, under the great seal of the Commonwealth, consolidating the boroughs into one corporation by the name set forth in the joint agreement or decree of the court of quarter sessions. A copy of such agreement, or of such decree, duly certified by the Secretary of the Commonwealth under the seal of his office, shall be evidence of the existence of the new borough] *recorded in the office for the recording of deeds in said county or counties, and when so recorded shall constitute the charter of the consolidated boroughs.*

Section 219. Payment of Costs and Expenses.—All costs and expenses incurred in such consolidation or proposed consolidation, except those incurred in any general, [or] municipal *or primary* election at which the question of consolidation is submitted, shall be paid by the consolidated borough, if such consolidation takes place, and, if not, such costs and expenses shall be paid in equal shares by each of the boroughs proposing to consolidate.

Section 220. Effect of Consolidation.—[Upon the issuance of letters patent, the several boroughs shall be a borough under the name provided in the agreement.] The ordinances in force in each of such boroughs, at the time of such consolidation, shall continue in force throughout the territory for which they were originally enacted, until altered or repealed by the council of

* "Certified," in original.

the consolidated borough. All rights, privileges, and franchises, of each of the boroughs, and all the property, real, personal, and mixed, and all debts due on whatever account, and other things in action, belonging to each of such boroughs, shall be vested in the new borough. The title to real estate vested in either of such boroughs shall not revert, or be in any way impaired, by reason of such consolidation. All rights of creditors and liens shall be preserved, and all debts, liabilities, and duties, of either of such boroughs, shall attach to such new borough and be enforced against it.

Section 221. Jurisdiction Over Consolidated Boroughs.—Any borough, formed by the consolidation of boroughs situate in different counties, shall be governed, for borough and school purposes, as one borough and, for county and [poor] *institution district* purposes, as a part of the county and [poor] *institution district* in which the territory is actually situated, in accordance with [the act, approved the twenty-eighth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, nine hundred and three), entitled “A supplement to an act, approved the fourteenth day of May, one thousand nine hundred and fifteen (Pamphlet Laws, three hundred and twelve), entitled ‘An act providing a system for government of boroughs, and revising, amending, and consolidating the law relating to boroughs,’ so as to provide a system of government where a borough now has annexed, or hereafter shall annex, land in an adjoining county, including assessment of property, levying and collection of taxes, making municipal improvements, and filing and collecting of liens for the same; the jurisdiction of courts for the enforcement of borough ordinances and State laws; and primary, general, municipal, and special elections; and repealing inconsistent laws,” providing for the government of boroughs where land lying in one county is annexed to a borough situate in another county] *existing laws*.

Section 222. Existing Governments Preserved Temporarily.—*The boroughs so consolidated shall continue to be governed as before consolidation until the first Monday of January following the municipal election next succeeding, occurring at least ninety days after the agreement, or certified copy of the decree of court has been filed for recording, at which time the officers of the consolidated borough chosen in accordance with section 805 of this act at such municipal election shall enter upon their respective terms of office, and the borough government of the consolidated borough shall be duly organized under this act, and the former borough governments shall cease to exist.*

(c) [Re-Establishment of Boroughs] *Creation of Boroughs from Cities of the Third Class*

Section 225. [Petitions to Re-establish Boroughs Forming Part of Third Class Cities.—Where cities of the third class have been formed by joining together two or more boroughs, the court of common pleas, upon the petition of not less than one-third of the registered electors of the territory formerly comprised within the limits of either of such boroughs, setting forth that the inhabitants of such territory wish to separate from the city and establish a borough organization, may appoint three commissioners, who shall investigate the facts set forth in such petition, and report to the court as to the expediency of granting the prayer of the petitioners.] *Petition for Creation of Borough from a City of the Third Class.—The court of quarter sessions shall, upon petition of at least ten per centum of the registered electors of any city of the third class, setting forth that the inhabitants of the city desire to change the charter of such city to a borough charter and be governed by the laws of the Commonwealth relating to boroughs, and that such city has had the city form of government for a period of at least five years, order an election to be held on the next day appointed for the holding of a general, municipal or primary election, occurring at least ninety days after the presentation of such petition. At such election the electors shall vote for or against the change of the charter of the city to a borough charter, and the adoption of the borough form of government. The petition shall set forth the name of the proposed borough. The number of registered electors required to sign the petition shall be determined as of the date the petition is filed.*

Section 226. [Report of Commissioners.—If the commissioners report in favor of setting off the territory from the city, they shall accompany their report with a plot of such territory, formerly comprising said borough, or any such part thereof as may be described in the petition.] *Filing Petition; Notice of Election; Return.—Upon the presentation of any such * petition, the court shall determine whether the petition is in due form and properly signed, and if the court so finds, it shall enter an appropriate order and direct that the petition shall be filed with the clerk of the court and that a copy of the petition and order of court shall be filed with the county board of elections. The county board of elections shall frame the proper question to be submitted to the electors at the election ordered by the court. Notice of such election shall be given in at least one newspaper of general circulation of the proper county once a week for*

* "a," deleted from original.

four consecutive weeks of the time of such election and the purpose thereof. The publication of the notice shall be made on behalf of the petitioners and shall be in form as the court may approve.

The county board of elections shall make return of the vote cast on the question submitted to the clerk of the court of quarter sessions, which return shall be filed with the petition. If a majority of those voting on the question submitted were in favor of the change of the charter of the city to a borough charter, the court shall order that the record of the proceedings be recorded in the office for the recording of deeds of the county, which record shall constitute the charter of the borough under the name set forth in the petition. If a majority of those voting on the question were against the change of the city charter no further proceedings shall be had, and the same question shall not again be submitted for a period of five years following such election.

Section 227. [Vote on Separation.—The court shall thereupon order an election, to be held on the next appointed day for the holding of a general or municipal election, at which time the qualified electors within such territory shall vote for or against such separation.] *When Borough Government Effective.*—Upon the recording of the record of the proceedings as above provided, the city form of government shall continue in operation until the first Monday of January next succeeding the first municipal election, occurring at least ninety days after the recording of the record, at which time the borough government shall be organized by the officers elected at said municipal election in accordance with section 805 of this act.

Section 228. [Decree of Court; Appointment of Borough Officers.—If a majority of votes cast for and against such separation at such election shall be in favor of such separation, the court shall make a decree declaring such territory a borough, and appoint one person qualified to serve as a member of the Senate of this Commonwealth to be the burgess of such borough, and seven persons qualified to serve as Members of the House of Representatives of this Commonwealth to constitute the council thereof. Such officers shall hold their respective offices until the first Monday of January next succeeding the municipal election, at which a burgess and council are to be elected, as provided in article eight of this act.] *Property; Assets; Liabilities; Ordinances; Wards; Election Districts and Certain Officers.*—Upon the formation of the borough government, all of the property and assets of the city shall become the property of the borough, and such change of government shall not in any way affect any liabilities incurred,

rights accrued or vested, obligations, issued or contracted, or any suits or prosecutions pending or instituted to enforce any right or penalty accrued, or punish any offense committed prior to such change. All ordinances of the former city shall continue in force in the new borough until altered or repealed in the manner provided by law. The wards and election districts of the city shall become the wards and election districts of the borough until altered or changed as may be provided by law. And in the election of councilmen from the several wards, two councilmen shall be elected from each ward, unless thereafter changed as provided by law. All constables, aldermen and election officers in office in the city, when the borough government is organized, shall remain in office until the expiration of their respective terms of office.

Section 229. [When Borough Government Takes Effect.—From the date of such decree, the territory so erected into a borough shall be separate from such city and shall be subject to the provisions of this act. The prothonotary shall furnish a certified copy of the decree to the Secretary of Internal Affairs of the Commonwealth, for which service he shall receive a fee of one dollar, to be paid as part of the costs of the proceeding.] *Costs and Expenses.—Where proceedings are had to change the charter of a city to a borough, and the vote of electors is in favor of the change, the costs and expenses of the proceeding, including all costs of advertising, shall be paid by the city, otherwise such costs and expenses shall be taxed against the petitioners.*

Sections 230, 235 to 240, act of May 4, 1927 P. L. 519, repealed.

Section 2. Sections 230, 235, 236, 237, 238, 239 and 240 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Sections 301 to 406, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 3. Sections 301 to 406 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE III

ANNULMENT OF [BOROUGH] CHARTERS; AND CHANGE OF CORPORATE NAMES

Section 301. Petitions for Annulment of Charters or Change of Corporate Names.—The [several] court of quarter sessions [within this Commonwealth] shall, [have power,] upon petition of [two-thirds] *at least ten per centum* of the [taxable inhabitants] *registered electors* of any borough [heretofore incorporated, to decree the annulment] *setting forth that the inhabitants of such borough desire to annul the charter of the [charter] borough or [the] to change [of] the corporate name of such borough, order an election to be held on the next*

day appointed for the holding of a general, municipal or primary election, *occurring at least ninety days after the presentation of such petition, at which election the electors of the borough shall vote for or against the annulment of the charter or the change of name of the borough, as the case may be. In the case of an annulment of charter, such petition shall set forth that the petitioners desire that the territory embraced within such borough shall revert to and become a part of the township from which it was taken or that it shall be created a new township of the second class, in which case the petition shall also set forth the proposed name of the new township.

Section 302. Filing Petition; Notice of Election; Return [Exceptions; Decree].—Upon presentation of such petition for annulment or change of corporate name to the court, and the entry of the court order thereon, after determination by the court that the petition is in due form and properly signed, it shall be filed with the clerk, [and notice thereof] and a copy of the petition and order of court shall also be filed with the county board of elections, which shall frame the proper question to be submitted to the electors at the election ordered by the court. Notice of the election shall be given in at least one newspaper of general circulation of the proper county [for a period of not less than thirty (30) days immediately preceding the date of such hearing, and during which time exceptions may be filed to such application by any person interested; and at such hearing the court shall make a full investigation of the case and, if it shall find that the conditions prescribed by law have been complied with and shall believe that it is expedient to grant the prayer of the applicants, shall grant the same and make a decree accordingly; and said application and decree shall be recorded in the recorder's office of the proper county.] once a week for four consecutive weeks of the time of such election and the purpose thereof. The publication of the notice shall be made on behalf of the petitioners in form as the court may approve. The county board of elections shall make return of the vote cast on the question submitted to the clerk of the court of quarter sessions, which return shall be filed with the petition. If a majority of those voting on the question submitted were in favor of the annulment of the charter or the change of the corporate name, as the case may be, the court shall order that the record of the proceedings shall be recorded in the office of the recorder of deeds, otherwise no further proceedings shall be had.

* "occurring," in original.

Section 303. Territory to Revert to Township; Corporate Name Changed; Indebtedness.—Upon the recording [and filing of such decree,] *of the record* as above provided, in case of an annulment of charter, the lands embraced within the limits of such borough, the charter of which is annulled, shall thereupon *in accordance with the prayer in the petition, either* revert to and become a part of the township from which it was taken, and be under and subject to its government and control, or shall become a new township of the second class under the name set forth [in the decree of court: Provided, however, That any indebtedness of such borough shall, in cases where such borough reverts to a former township] *in the petition. In cases where a borough reverts to the township from which its territory was taken, the government of the borough shall cease and terminate on the first Monday of January next succeeding the election on the question of the annulment of the charter, and the property and assets of the borough, including all uncollected taxes and liens, shall be converted into cash by the township supervisors, and shall be applied only to the payment of the outstanding indebtedness of the borough, but any moneys not needed for such purposes shall revert to the township, and any borough indebtedness not paid as above provided shall be paid from the taxes assessed and collected from that portion of said township formerly included within the limits of such borough. [And provided, That, in] In the case of a change of the corporate [title] name, the corporate [title] name of said borough shall [thereafter] from the date of the recording of the record of the proceeding be as set forth in said [decree] petition, but such change shall not in any way affect any liabilities incurred, rights accrued or vested, obligations issued or contracted, or any suits or prosecutions pending or instituted to enforce any right or penalty accrued or punish any offense committed, prior to such change.*

All costs and expenses incident to the proceedings for the annulment of the charter or change of the [title] name, as aforesaid, shall be paid by the petitioners. *To secure the payment of costs and expenses, the court may require the petitioners to file a bond in such sum as it may fix.*

Section 304. Officers Where a New Township is Created.—*Where a new township of the second class is created by the annulment of the charter of a borough, officers for such township shall be provided in the manner provided by the laws relating to townships of the second class for such cases and the new township government shall become effective on the first Monday of January next succeeding the municipal election,*

occurring at least ninety days after the recording of the proceedings, at which time the officers of the new township shall be elected as provided by the laws relating to townships of the second class for such cases.

ARTICLE IV

CHANGE OF BOROUGH LIMITS

(a) [On Petition of Freeholders] *Annexation of Townships of First Class or Parts Thereof*

Section 401. [Power to Change Borough Limits.—The court of quarter sessions, with the concurrence of the grand jury, may, upon petition, change the limits of any borough heretofore incorporated by the court of quarter sessions from a town or village or incorporated under the provisions of this act.] *Petition for Annexation of a Township of the First Class or Parts Thereof.*—Registered electors equal to at least ten per centum of the registered electors in any township of the first class contiguous to a borough, or ten per centum of the registered electors residing within any part of a township of the first class contiguous to a borough, may petition the council of such borough for the annexation of the township of the first class, or part thereof, as the case may be, to the contiguous borough, and for a referendum on the question of such annexation. The number of registered electors required to sign a petition shall be determined as of the date the petition is filed. All petitions shall be accompanied by a plot or plots of the territory to be annexed, showing all streets and highways, municipal improvements and public buildings. All petitions for the annexation of a part of a township of the first class shall include a description of the part of the township sought to be annexed.

Section 402. [Limitation *on Power.—The provisions of the preceding section do not authorize a change of borough limits by the detachment of territory and its annexation to a contiguous township.] *Referendum in Township and Borough.*—The council of the borough shall cause a question to be submitted at the first general, municipal or primary election, occurring at least sixty days after the petition has been filed with it, by certifying an ordinance duly adopted to the county board of elections in which any part of the township or borough is located, for the submission of a proper question on the ballot or on voting machines at such election in such township, and in the borough to which the annexation is to be made as provided by the Pennsylvania Election Code. Where a part of a township is involved, the question submitted shall give a brief description of the territory to be annexed to the borough.

* "ot," in original.

Section 403. [Notice of Application.—Notice of the intended application shall be given in at least one newspaper of the county for a period of not less than thirty days immediately before the presentation of the petition.] *Result of Election.*—*If a majority of the persons voting on such question in the entire township and a majority of the persons voting on such question in the borough shall vote in favor of the annexation, then the township of the first class, or part thereof, as the case may be, shall on the first Monday of January next following be and become a part of the borough. If the majority of the votes cast on the question in either the entire township or in the borough was against annexation, then the annexation proceeding shall fail and the question of such annexation shall not again be voted upon for a period of two years from the date of such election.*

Section 404. [Signing Petition; Contents.—The petition shall be signed by a majority of the freeholders residing in the borough within three months immediately preceding its presentation to the court. It shall set forth a description and be accompanied with a plot showing the courses and distances of the boundaries of the borough before and after the proposed change of limits.] *Wards.*—*Until changed in the manner provided by law, the township of the first class, or part thereof annexed to the borough, if not divided into wards, shall constitute a separate new ward of the enlarged borough, if such borough is at the time divided into wards. If the township, or part of the township, at the time of annexation was divided into wards, then each ward of the township, or part of the township, shall constitute a separate ward of the enlarged borough (if divided into wards) and shall be consecutively numbered or otherwise appropriately designated by the council of the borough.*

Section 405. [Petition to Be Laid Before Grand Jury.—The petition, except as provided in section four hundred and two of this article, shall be laid before the grand jury of the same term of court when presented, whenever the same can be conveniently done, and in no case later than the next subsequent term of court.] *Election Districts and Election Officers.*—*Until changed in the manner provided by law, all election districts in the former township of the first class or part thereof shall remain as constituted at the time of the annexation and shall become election districts of the enlarged borough. All election officers of such election districts in office at the time of the taking effect of the annexation shall continue in office until the expiration of their respective terms, unless sooner removed as provided by law.*

Section 406. [Action of Grand Jury; Decree of Court.—If the grand jury shall believe it expedient to grant the prayer of the petitioners, they shall certify the same to the court. The certifications shall be entered of record and no further proceedings had until the succeeding term of court, at which term the judgment of the grand jury may be confirmed. If the court shall deem further investigation necessary, it may make such order as to right and justice shall appertain. If the court shall grant the prayer of the petitioners, the petition and decree shall be recorded in the recorder's office at the expense of the petitioners, who shall pay all other expenses and costs in connection with said petition and decree.] *Government Where Lands Lie in Two or More Counties.*—If the lands annexed to the borough are located in a county or counties different from that of the borough, they shall be governed for borough purposes as part of the borough to which annexed, and for county and institution district purposes as part of the county and institution district in which actually situated, in the manner provided by law in such cases.

Section 4. Sections 407 and 408 of said act of May *4, 1927 (Pamphlet Laws 519) are hereby repealed.

Sections 407 and 408, act of May 4, 1927 P. L. 519, repealed.

Section 5. Sections 410 to 432 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 410 to 432, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

(b) [By annexation on Petition of Freeholders Outside the Borough] *Annexation of a Township of the Second Class or Part Thereof by Petition to Court*

(1) Where Territory is in One County:

Section 410. Annexation by Court; [With Concurrence of Grand Jury] *Decree.*—The court of quarter sessions, [with the concurrence of the grand jury,] may, upon petition, change the limits of any borough by the annexation of adjacent territory *located in a township of the second class.*

Section 411. Notice of Application.—Personal notice of the intended application shall be given to the burgess and council of the borough, and to the [commissioners or] supervisors of the township in which the petitioners reside. Notice of such application shall also be given in one newspaper of *general circulation* of the county, [for a period of thirty days] immediately before the presentation of the petition *by publication once a week for four consecutive weeks:*

Section 412. Signing and Contents of Petition.—Where the territory to be annexed is all or part of a second-class township, the petition shall be signed by a majority *in number of all* of the freeholders [residing

* "4," omitted in original.

within such] *of the territory to be annexed.* [Where the territory to be annexed is all or part of a first-class township, the petition shall be signed by two-thirds of the resident freeholders and by the owners of three-fourths of the assessed valuation of the real estate of the territory to be annexed. It] *The petition* shall set forth a description, *of the territory to be annexed* and be accompanied with a plot, showing the courses and distances of the boundaries of the borough before and after the proposed annexation.

Section 413. [Certificate of Grand Jury] Decree of Court; Costs; Limitation of Subsequent Proceedings.— [The court shall cause the petition to be laid before the grand jury and, if the grand jury shall believe it expedient to grant the prayer of the petitioners, they shall certify the same to the court, which certificate shall be entered of record for confirmation by the court.] The court *after hearing* may make such order [thereon] *on the petition* as to right and justice shall appertain. If the court shall confirm the petition, the said petition and decree shall be recorded in the recorder's office of the county, at the expense of the petitioners, who shall pay all other expense and costs in connection with said petition and decree. Thenceforth the territory so annexed shall be a part of the borough, *and shall become a part of the contiguous ward or wards of the borough, or constitute a new ward or wards of the borough as the court in its order may prescribe.* If [the grand jury shall not approve or] the court shall not confirm the petition, no other proceeding for the annexation of the same territory, or any part thereof, shall be had within five years thereafter.

(2) Where Territory is in Two or More Counties:

Section 415. Petition for Annexation.—The court of quarter sessions may, upon petition, annex to any adjacent borough, territory *in a township or townships of the second class* situated in [two or more counties] *a county or counties different from that of the borough.*

Where the territory to be annexed is all or part of a second-class township, the petition shall be signed by a majority *in number of all* of the freeholders [residing within such] *of the territory to be annexed,* [Where the territory to be annexed is all or part of a first-class township, the petition shall be signed by two-thirds of the resident freeholders and by owners of three-fourths of the assessed valuation of real estate of such territory] and shall be presented to the courts of quarter sessions of all the counties in which the territory *to be annexed* and the borough are situated.

Section 416. Notice of Application.—Notice of the intended application shall be given in one newspaper

of general circulation in the territory *to be annexed* and in the borough [for a period of thirty days,] immediately before the presentation of the petition to any of the courts *by publication once a week for four consecutive weeks.*

Section 417. Appointment of Commissioners; View; Report.—Upon presentation of the petition, the several courts shall each appoint one person as commissioner, and the commissioners so chosen shall select an additional one who shall be a surveyor *or registered engineer.*

The commissioners shall be severally sworn or affirmed, within sixty days from their appointment and selection, and shall view the territory sought to be annexed. They shall report to the several courts, [at the respective terms next following such appointment, or] as soon thereafter as possible. The report shall state that the commissioners were sworn or affirmed, and that they were all present at the view. If the commissioners favor the proposed annexation, they shall accompany their reports with a plot, showing the courses and distances of the boundaries of the territory proposed to be annexed and the quantity of land therein contained *and the ward or wards of the borough of which such territory shall be a part or that it shall constitute a new ward or wards.*

Section 418. Rules on Petitioners.—Any person interested may petition any of the courts [at the term to which the respective report is made,] for a rule on [any two or more persons signing the original petition.] *the petitioners* to show cause why the report should not be approved. The rule shall be returnable [not later than the succeeding term.] *within such time as the court may fix.* If the rule is confirmed, the persons signing the original petition shall pay the costs of the entire proceedings; if such rule is discharged, the costs shall be paid by those petitioning for its issue.

Section 419. Approval by Court; Compensation of Commissioner; Limitation of Subsequent Proceedings.—If each of the courts shall approve the report of the commissioners, the whole proceeding shall be entered on the record of each court, and the territory annexed shall be a part of the borough. Each commissioner shall receive [five dollars per day for each day necessarily employed in the discharge of his duties,] *such compensation for his services as the court shall allow* to be paid [if such territory is annexed, by the borough.] *by the original petitioners.* If the commissioners shall not favor or if either court shall not approve the annexation, no other proceeding for the annexation of the same territory, or any part thereof, shall be had within five years thereof.

Section 420. Government of Territory.— Where [lands are] *territory* is so annexed to a borough of an adjoining county, such [lands,] *territory* [which are] so annexed, shall be governed, for borough [and school] purposes, as a part of the borough to which they are annexed, and for county [and poor] *and institution district* purposes, as a part of the county [and poor] *and institution district* in which actually situated, in the manner provided by [the act, approved *the twenty-eighth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws **nine hundred and three), entitled “A supplement to an act approved ***the fourteenth day of May, one thousand nine hundred and fifteen (Pamphlet Laws ****three hundred and twelve), entitled ‘An act providing a system for government of boroughs, and revising, amending, and consolidating the law relating to boroughs,’ so as to provide a system of government where a borough now has annexed or hereafter shall annex land in an adjoining county; including assessment of property, levying and collection of taxes, making municipal improvements, and filing and collecting of liens for the same; the jurisdiction of courts for the enforcement of borough ordinances and State laws; and primary, general, municipal, and special elections; and repealing inconsistent laws.”] *law in such cases.*

(c) [By] Annexation [on] of *Lands in Townships of the Second Class* by Petition to Council

Section 425. Annexation; Ordinance; Limitation of Subsequent Proceedings.—Any borough may, by ordinance, annex adjacent land situate *in a township of the second class* in the same or any adjoining county, upon petition. [of freeholders, as follows: If the territory to be annexed is all or part of a second-class township, the] *The* petition shall be signed by a majority *in number of all* of the freeholders of [such] *the* territory *to be annexed.* [If the territory to be annexed is all or part of a first-class township, the petition shall be signed by two-thirds of the freeholders and by the owners of three-fourths of the assessed valuation of the real estate of the territory proposed to be annexed: Provided, that if] *If* an ordinance to make such annexation is defeated, no other proceeding for the annexation of the same territory, or any part thereof, shall be had within five *****years thereof. [The requirements of this section concerning signing of petitions shall apply

* “June 28, 1923,” in original.

** “903,” in original.

*** “May 14, 1915,” in original.

**** “312,” in original.

***** “year,” in original.

to proceedings pending at the time such requirements become a part of the section, as well as to subsequent proceedings.]

Section 426. Procedure.—A certified copy of [the] *any ordinance, adopted* together with a description, and a plot showing the courses and distances of the boundaries of the borough before and after such proposed annexation, shall be filed in the court of quarter sessions of the county, or, in case the land proposed to be annexed is situate in *an adjacent county*, then in the courts of both counties. A notice of such filing shall also be filed in the office of the county [commissioners] *board of elections* of the proper county. Thereupon the territory proposed to be annexed shall be a part of the borough; except when any ordinance and plot are filed in the office of the clerk of the court of quarter sessions within two months of any general, municipal, or primary election, in which case the property proposed to be annexed shall not become a part of the borough until the day succeeding such election.

Section 427. Government of Territory.—Where [lands are] *territory* is annexed to a borough of an adjoining county, such [lands, which are] *territory* so annexed, shall be governed, for borough [and school] purposes, as a part of the borough to which [they are] *it is* annexed, and, for county and [poor] *institution district* purposes, as part of the county or [poor] *institution district* in which actually situated, in the manner provided by [the act, approved the twenty-eighth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, *nine hundred and three), entitled "A supplement to an act, approved the fourteenth day of May, one thousand nine hundred and fifteen (Pamphlet Laws, **three hundred and twelve), entitled 'An act providing a system for government of boroughs, and revising, amending, and consolidating the law relating to boroughs,' so as to provide a system of government where a borough now has annexed, or hereafter shall annex, land in an adjoining county; including assessment of property, levying and collection of taxes, making municipal improvements and filing and collecting of liens for the same; the jurisdiction of courts for the enforcement of borough ordinances and State laws; and primary, general, municipal, and special elections; and repealing inconsistent laws.']] *law in such cases.*

(d) [By] Detachment of Territory

[(1) Where It Is Annexed to a Contiguous Township:]

* "903," in original.

** "312," in original.

Section 430. Petitions to Detach Territory.—The court of quarter sessions, upon petition, may change the limits of any borough by detaching territory therefrom and annexing the same to a *contiguous township or [townships.] *borough in cases where the line between a borough and a township or another borough shall separate the lands of any person, or where the territory of any borough is divided by reason of natural or artificial causes, or where any part of a borough is so located that access to the remaining portion can be had only by passing through some other township or borough.*

Section 431. Signing and Contents of Petition.—The petition shall be signed by a majority in number of the [freehold residents of the borough, except where the dividing line between a borough and a township shall separate the lands of any person, in which case the petition may be made by any freeholder whose lands are so divided] ***freeholders in the territory to be detached.* The petition shall contain the names of the contiguous township or [townships] *borough* to which the territory is proposed to be annexed, and shall set forth a description of the territory to be detached, and be accompanied with a plot showing the courses and distances of the boundaries of such township or [townships] *borough* before and after the [proposed change of limits] *annexation of the detached territory.*

Section 432. Filing Petition; Notice; Decree.—Upon its presentation, the court shall order the petition filed and shall fix a time for hearing. Notice of the filing of the petition shall be given to the supervisors of the [townships] *township* and to the secretary of the borough and president of council of *each borough affected*, at least twenty days prior to the date of hearing. If, *after hearing*, the court shall determine in favor of the proposed detachment of territory, it shall state in its decree to what adjacent township or [townships] *borough* the territory so detached shall be annexed. The petition and decree shall be recorded in the office for the recording of deeds of the county [at the expense of the petitioners,] and thenceforth the boundaries of the borough and of the adjacent township or [townships] *borough* shall be as decreed by the court. *The costs of the proceedings, including the cost of the recording of the petition and decree, shall be paid by the petitioners.*

Subheading (2), of subdivision (d) of Article IV and sections 435-438, act of May 4, 1927 P. L. 519, repealed.

Section 6. Subheading (2) of subdivision (d) of Article IV and ***sections 435, 436, 437 and 438 of said act are hereby repealed.

* "contiguous," in original.

** "freeholder," in original.

*** "Section," in original.

Section 7. Article V and sections 501 to 508 inclusive of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Article V and sections 501 to 508, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE V

BOROUGH BOUNDARIES

Section 501. Stream Boundaries.—Whenever any borough is bounded by the nearest margin of a navigable stream, and [an] *the* opposite township, borough, or city, *as the case may be*, is also bounded by the nearest margin of the same stream, the [boundaries of such borough shall extend to the center line of the stream.] *middle of such stream shall be the boundary between such borough and the opposite township, borough or city. Nothing contained in this section shall be construed to repeal any local or special law providing to the contrary.*

Section 502. [Court to Establish] *Establishment of Disputed Boundaries.*—The court of quarter sessions *may*, upon presentation of a petition, [may] (a) *alter the lines of a borough and any adjoining township, borough or city so as to suit the convenience of the inhabitants thereof, (b) cause the lines and boundaries of boroughs to be ascertained and established, and (c) ascertain and establish disputed boundaries between two or more boroughs, between boroughs and cities, or between boroughs and townships. When any such petition is presented, the court may require the petitioners to file a bond in sufficient sum to secure the payment of all costs of the proceeding.*

Section 503. Petition to Court; Commissioners; Report.—Upon [such] *application by* petition, the court shall appoint as commissioners three impartial men, one of whom shall be a surveyor or registered engineer to *inquire into the prayer of the petition. After giving notice to parties interested, as directed by the court, [they shall] the commissioners shall hold a hearing and view the [disputed] lines and boundaries, and they or any two of them shall make a plot or draft of the lines and boundaries proposed to be altered, ascertained and established if the same cannot be fully designated by natural lines and boundaries. The commissioners, or any two of them, shall make report [to the next succeeding term of court, which report shall contain their recommendations and be accompanied with a plot of the proposed boundary, if the same cannot be fully described by natural lines.] to the court together with their opinion of the same. Upon the filing of any such report, the same shall be confirmed nisi, and the court may, by its order, require such notice to be given by the petitioners to the parties interested as it deems proper.*

Section 504. [Reviews; Exceptions and Issues.—Any person interested may petition the court for a review, or may except to the report of the commissioners. When matters of fact are in dispute, the court may frame an issue and certify the same for trial to the court of common pleas.] *Exceptions and Procedure.*—*Exceptions to any such report may be filed by any person or political subdivision interested, within thirty days after the filing of the report, and the court may thereupon fix a day for the hearing of such exceptions, of which such notice shall be given as the court may direct. After hearing the court shall have power to sustain such exceptions, or to dismiss them and confirm the report, or to refer the report back to the same or new commissioners with like authority to make another report on which like proceedings may be had. Where no exceptions are filed within thirty days after the filing of the report, the court shall confirm the same absolutely. When any report is confirmed absolutely the court shall enter a decree altering or ascertaining and establishing the lines and boundaries as shown in said report.*

Section 505. [Pay] *Compensation and Expenses of Commissioners; Costs.*—[The commissioners shall each receive three dollars per day, except the surveyor who shall receive five dollars per day, for each day necessarily employed in the performance of their duties, and mileage at the rate of ten cents per mile for each mile necessarily traveled.] *The compensation and expenses of commissioners appointed to alter or ascertain and establish borough boundaries shall be in an amount approved by the court. The court shall by its order provide how the costs and expenses of such proceeding, including the furnishing and placing of monuments, shall be paid, and may assess them against the petitioners, the borough, township or municipality interested, or any of them.*

Section 506. *Boundary Monuments.*—Whenever [a boundary is established pursuant to the preceding sections of this article,] *any such borough line is altered or ascertained and established, the court shall cause the same to be appropriately marked [with stone monuments, placed at intervals not exceeding fifteen hundred feet, and the expense of establishing said boundary and the placing of said monuments, when approved by the court, shall be borne equally by the municipalities or townships interested].*

Section 507. *Boundary Lines Between Boroughs.*—Whenever the dividing line between two adjoining boroughs is uncertain, or whenever adjoining boroughs desire that the dividing line should be changed, or *whenever the dividing line between adjoining boroughs*

situate in the same county separate the property of the same owner into two or more parts, the borough councils may declare and fix such boundary line, or may change the same in the manner hereinafter set forth. Where the proceeding involves borough lines separating the property of an owner, the consent of such owner shall be secured to the change of the boundary.

Section 508. Ordinances Fixing Lines Between Boroughs; Plots to Be Filed.—[Such] *In the case of proceedings under the section immediately preceding, the dividing line shall be determined and fixed or changed, by ordinance passed by the councils of each borough [by the affirmative votes of not less than two-thirds of all the members elected to each of the councils, and approved by the respective burgesses]. A plot showing such dividing line and the changes in the same, together with certified copies of the ordinances [authorizing the action taken,] shall be filed in the office of the clerk of the court of quarter sessions, within thirty days after the approval of the last ordinance relating to the matter.*

Section 8. Sections 509 and 510 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby repealed.

Section 9. Sections 601 to 607 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) as existing prior to the amendment of May 7, 1943 (Pamphlet Laws 252) are hereby reenacted, revised and amended to read as follows:

Sections 509 and 510, act of May 4, 1927 P. L. 519, repealed.

Sections 601 to 607, act of May 4, 1927 P. L. 519 existing prior to amendment of May 7, 1943 P. L. 252, reenacted, revised and amended.

ARTICLE VI

BOROUGH WARDS

Section 601. Power of Court to Erect and Change Wards and to Alter and Establish Lines.—The court of quarter sessions, upon petition, may divide boroughs into wards, erect new wards [consolidate two or more wards into one ward] out of two or more adjoining wards or parts thereof, [attach land annexed to a borough to an adjacent ward or wards] *consolidate two or more wards into one ward*, divide any ward already erected into two or more wards, [or] alter the lines of any two or more adjoining wards, [and may] *or* cause the lines or boundaries of wards to be ascertained and established.

Section 602. Signing Petition; Appointment of Commissioners; Report.—The petition shall be [signed by twenty freeholder residents of the borough, or of the ward] *presented by the council of the borough pursuant to a resolution of the council, or by at least five per centum of the registered electors of the borough or of the ward or wards whose limits it is proposed to change, as the case may be.* Upon its presentation, the court shall appoint three impartial men as commissioners, to

inquire into the propriety of granting [its prayers] *the prayer in the petition*. The commissioners, or any two of them, shall make a report to the [next term of the] court, *within sixty days after their appointment* and shall accompany it with a plot, showing the [boundary] *boundaries* of the [borough and] *proposed wards of the borough, or the wards* before and after the proposed change, *as the case may be*, whenever the same cannot be fully designated by natural lines.

Section 603. Confirmation of Report; Review.—[The] *Upon its presentation, the court shall confirm the report nisi, which confirmation shall become absolute unless exceptions are filed [before the third day of the term next succeeding.] thereto, and shall direct that notice of the filing of the report shall be given by publication once in a newspaper of general circulation, stating that exceptions may be filed to such report within thirty days after the same was filed. The court shall confirm the report absolutely if no exceptions are filed or if it dismisses the exceptions. The court may [grant] remand the report to the commissioners for a review, if in its opinion a better adjudication may thereby be secured [upon a petition presented before the third day of such succeeding term].*

Section 604. Compensation of Commissioners.—The commissioners shall each receive [three dollars per day, except a surveyor who shall receive five dollars per day, for each day necessarily employed in the discharge of their duties, and mileage at the rate of five cents per mile for every mile necessarily traveled.] *such compensation for their services as the court shall fix.*

Section 605. Payment of Costs; Bond.—Such compensation *and all costs and expenses incurred in such proceedings* shall be paid [by the county, during the term of court to which the report is made, to be reimbursed] by the *borough or the* petitioners, as directed by the court. To secure such reimbursement, the court may require the petitioners, *other than the borough council*, to file a bond with their petition. [All other costs and expenses, incurred in the erection, division, or alteration of wards, shall be paid by the petitioners, without liability upon the county.]

Section 606. Terms of Officers.—[Officers] *Whenever the court shall divide any borough into wards, it shall appoint for each ward a judge and two inspectors of election to hold elections until such officers may be elected as provided by law. In all other cases, officers in office at the time [of] any changes are made pursuant to the preceding sections of this article, shall remain in office until the expiration of the terms for which they*

have been elected. In case any vacancy shall occur, the same shall be filled by the council, until the first Monday of January next succeeding the election at which such officers are to be elected, as provided in article eight of this act.

Section 607. Change of Names and Numbers.—Boroughs may, by ordinance, change the name of any ward to a number, or change the number of any ward to name. No such ordinance shall go into force until a certified copy thereof is filed with the clerk of the court of quarter sessions.

Section 9.1. Sections 701 to 708 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 701 to 708, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE VII

ADJUSTMENT OF INDEBTEDNESS

- (a) When Borough Incorporated [from a Township] or Territory Attached

Section 701. [Boroughs to Share in Indebtedness When Incorporated.—Whenever a township is merged into one or more boroughs, or whenever a borough is erected out of a township, or parts of adjoining townships, every such borough shall *share, in just proportion, in the rights and liabilities of such townships existing at the time of its incorporation. In all pending actions, and actions thereafter brought, by or against such townships, the borough liable or entitled shall, by order of court, be made party plaintiff or defendant as the case may be.] *Indebtedness Where Entire Township Annexed.—Where an entire township is annexed to a borough all of the indebtedness of the township, as well as the indebtedness of the borough, shall be paid by the borough as enlarged by the annexation. All taxes thereafter levied to pay such indebtedness shall be uniform throughout the territorial limits of the enlarged borough.*

Section 702. [Court to Adjust Indebtedness in Bill in Equity.—Whenever any borough has been erected out of a township, or whenever any township has been merged into more than one borough, the court of common pleas, upon application, by a bill in equity, of any creditor of such townships, or of the authorities of any such township or borough, may ascertain the indebtedness of such townships, including judgments against the same at the time of the incorporation of such boroughs respectively, and may equitably adjust such indebtedness between such townships and boroughs, and between

* "have," in original.

the several boroughs into which any township shall have been merged, and shall decree the proportion of such indebtedness which each township and borough shall pay. In making such adjustment the township taxes then unexpended shall be taken into account.] *Agreement to Adjust Indebtedness Where Borough Created or Territory Annexed Thereto.*—Whenever a borough is created out of a township, or whenever a part of a township is annexed to a borough, the commissioners or supervisors of the township and the council of the borough may make a just and proper adjustment and apportionment of all the public property owned by the township at the time of the incorporation of the borough or the annexation of territory from the township to the borough, both real and personal, including funds, as well as indebtedness between the borough and township. In making such adjustment and apportionment, the township and borough shall be entitled respectively to share in a division of the property and indebtedness in proportion that the assessed valuation of the land remaining in the township bears to the assessed valuation of the lands included within the territorial limits of the newly incorporated borough, or to the assessed valuation of the lands annexed to the borough, as the case may be: Provided, however, That where indebtedness was incurred by the township for an improvement located wholly within the territorial limits of the newly incorporated borough, or wholly within the limits of the territory annexed to the borough, as the case may be, such indebtedness shall be assumed by the borough, and where any part of such improvement is located within the newly incorporated borough, or within the part of the township annexed to the borough, the part of such indebtedness, representing the part of the improvement located within the borough or annexed territory, shall be assumed by the borough and the adjustment and apportionment of any remaining debt and the public property of the township shall be made as above provided.

The adjustment and apportionment as made shall be reduced to writing, and shall be duly executed and acknowledged by the secretary or clerk of the township and borough, and shall be filed in the office of the clerk of quarter sessions of the county.

Section 703. [Assessments to Furnish Basis of Adjustment.—The adjustment shall be based upon the assessments of the townships for the year in which such boroughs were incorporated. In ascertaining the indebtedness, neither pending actions, nor claims against such townships founded on tort, shall be included, unless the same shall, in the meantime, have been prosecuted to final judgment.] *Judicial Adjustment on Fail-*

ure of Agreement.—In case the township and the borough authorities cannot make an amicable adjustment and apportionment of the property and indebtedness within six months after the government of the newly incorporated borough is established, or the territory has been annexed to a borough, as the case may be, then the commissioners or supervisors of the township or the council of the borough may present a petition to the court of quarter sessions asking for the appointment of an auditor, not residing in the township or borough, who, after hearing, notice of which shall be given to the township and borough as the court shall direct, shall make report to the court making an adjustment and apportionment of all the property as well as the indebtedness between the township and the borough. The report shall state the amount that shall be due and payable from the borough to the township, or from the township to the borough, and the amount of indebtedness that shall be assumed by the borough or the township.

In making such adjustment and apportionment of indebtedness the auditor shall take into consideration all of the elements set forth in the section immediately preceding.

Section 704. [Notice; Claims Barred. — Three months' notice shall be given, by order of court, to all persons having claims against any of such townships, to present the same on or before the day therein named. All persons failing to present their claims, shall be forever debarred from enforcing collection of the same. The notice shall be published in not less than two newspapers of the county.] *Proceeding on Judicial Adjustment Award.—The auditor shall give the township and the borough notice of the filing of their report. Unless exceptions are filed to such report within thirty days after the date of the filing, the report shall be confirmed by the court absolutely. Any sum awarded by said report to the township or borough shall be a legal and valid claim in its favor against the borough or township charged therewith. Any property real or personal given to the township or borough shall become its property. Any claim or indebtedness charged against the borough or township may be collected against it.*

Section 705. [Court orders; Taxation.—The court may make all needful orders for the collection and payment, by the township or borough, of the share of the indebtedness apportioned to it, and may order the officers of the township or borough to collect, by special taxation, an amount sufficient to pay the share either in one year or by annual installments.] *Exceptions to Report.—In case exceptions are filed to the report of the auditor, the court shall dispose of the same taking testi-*

mony therein if it deems the same advisable. The court shall enter its decree confirming the award of the auditor, or modifying the same as to it appears just and proper. The decision of the court shall be final unless an appeal is taken to the Supreme or Superior Court as in other cases.

Section 706. [Appointment of Receiver.—The court may appoint a receiver to whom the money due from each township and borough shall be paid. The receiver shall pay over the amount so received to creditors of the township, in such order or in such proportions as the court shall direct. In case of any special taxation in any township or borough, the collector of the special tax shall pay the same to the receiver.] *Compensation and Expenses of Auditor; Costs.—The auditor shall be allowed such compensation and expenses for his services as the court shall fix. The costs of the proceedings, including the compensation and expenses of the auditor, shall be apportioned by the court between the borough and township as it deems proper.*

Section 707. [Credit for Unappropriated Balances.—Each borough, in any of the cases aforesaid, shall be credited with its proper share of any unappropriated balance in the treasury of such *townships at the end of the current year during which such borough shall have been incorporated, and the court may equitably apportion the same.] *Where Territory of Borough or Annexed Territory is Located in Two or More Counties.—In case the territory, included within the limits of a newly incorporated borough or territory annexed to a borough, is located in two or more counties, the court of quarter sessions of the county where the borough or the larger part of the territory of the borough is located, shall have exclusive jurisdiction over the proceedings to adjust and apportion the indebtedness between the borough and township.*

Section 708. [Payment of Costs.—The costs of the proceedings shall be paid by the several townships and borough in such proportions as the court shall direct.] *Bond Issues; Taxation.—In any such proceeding the township or the borough shall have power to issue and deliver to the borough or township interest-bearing bonds in liquidation of the indebtedness ascertained, to be its proportionate share payable, if such bonds are acceptable to the borough or township entitled to receive the same. The court may also make all needful orders for the collection and payment by the township or borough by special taxes to be collected in one year, or by annual installments, the amount needed to pay the share of any indebtedness apportioned to it.*

* "township," in original.

Section 10. Subdivisions (b) and (c) of Article VII and sections 710, 711, 712, 715, 716, 717 and 718 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby repealed.

Section 11. Subdivision (d) of article VII and sections 720 to 805 inclusive of said act of May 4, 1927 * (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

[(d)] (b) When Territory is Detached

Section 720. Appointment of Auditor.—Whenever, [under the provisions of sections four hundred and thirty to four hundred and thirty-two inclusive of this act,] the court shall decree the detachment of territory from a borough, *and the boroughs and townships affected thereby cannot amicably agree as to the adjustment of indebtedness, if any, between themselves,* the court of quarter sessions, upon petition of either the borough or township, shall appoint an auditor, who shall give such notice of a hearing as the court shall direct to all parties in interest.

Section 721. Duties of Auditor.—The auditor shall hear all parties in interest, make necessary investigation, and report to the court the total valuation for taxation purposes of the borough and townships affected, the assessed valuation of the portion detached, the amount of indebtedness of the several boroughs and townships, and the value of all property transferred from the borough to a township or borough. The auditor shall also report a form of decree, making such adjustment of the indebtedness of the boroughs and townships affected as he shall deem equitable.

Section 722. Confirmation of Report; Costs.—The report and decree shall be confirmed nisi by the court, and shall become absolute [in ten days,] unless exceptions be filed thereto. [or an appeal be taken by parties in interest.] *In case exceptions are filed within thirty days after the report is filed in court, the court shall dispose of the same taking testimony therein if it deems the same advisable. The court shall enter its decree confirming the report of the auditor or modifying the same as to it appears just and proper. The decision of the court shall be final.* The costs and expenses of the proceedings shall be paid as the court shall direct.

ARTICLE VIII

ELECTION OF OFFICERS

(a) General Provisions Relating to Elected Officers

Section 801. Electors Only to be Eligible.—[Electors] *Registered electors* of the borough only shall be eligible to elective borough offices.

Subdivisions (b) and (c) of Article VII and sections 710 to 712 and 715 to 718, act of May 4, 1927 P. L. 519, repealed.

Subdivision (d) of Article VII and sections 720 to 805, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

*“(Pamphlet Laws 519),” omitted in original.

Section 802. Time and Place of Elections.—Elections for borough officers shall be at the time and place designated by law for the holding of municipal elections.

Section 803. Certificates of Election.—Certificates of election of all borough officers shall be filed *with the borough secretary and be preserved* among the records of the borough for a period of six years.

Section 804. Term; Bonds.—Persons elected to borough offices, *other than the office of member of council*, shall serve until their successors are elected and qualified, *but such service shall not continue longer than the first Monday of January succeeding the next municipal election, at which election a successor shall be elected for the unexpired term.*

Whenever any elected official of a borough is required to give bond for the faithful performance of his duties, the borough may pay the premium for such bond.

Section 805. [Elections Where Boroughs Created.—Whenever in boroughs hereafter formed by the division of a borough, or in boroughs hereafter created by the detachment of territory, a special election is ordered by the court for the election of borough officers, the officers so elected shall hold their office until the first Monday of January next succeeding the municipal election, at which such officers are elected as provided in sections eight hundred and ten to eight hundred and fifty inclusive of this article, and, whenever a borough is incorporated from a township, the borough officers shall be elected at the municipal election next succeeding the final decree incorporating such borough and shall enter upon their respective terms of service on the first Monday of January following such election. In each of the aforesaid cases the officers elected at the first municipal election following the creation of such borough and thereafter shall be so elected that the time of their election and, in the case of councilmen and auditors, the number to be elected at any municipal election, shall coincide with the time and number elected at such municipal elections by boroughs incorporated prior to the passage of this act.] *Election of Borough Officers When Boroughs Created, Etc.—Whenever a borough is incorporated under the provisions of sections 201 to 211 inclusive of this act, or whenever two or more boroughs are consolidated under the provisions of sections 215 to 222 of this act, or whenever a borough is created from a city of the third class under the provisions of sections 225 to 229 of this act, the officers of the borough, provided for in section 807 of this act, shall be elected at the appropriate municipal election as provided in said sections and such officers shall take office on the first Monday of January succeeding such election.*

At any such election, if the borough is not divided into wards, of the seven councilmen to be elected, three or four councilmen, as the case may be, shall be elected for terms of two years each, and three or four councilmen, as the case may be, shall be elected for terms of four years each, to coincide with the number of councilmen elected at such election in existing boroughs under the provisions of section 810 of this act.

In the case of the consolidation of two or more boroughs into one borough, or the creation of a borough from a city of the third class, and where in either event two councilmen are to be elected from each ward for a term of two years and one councilman shall be elected from each ward for a term of four years.

In all boroughs coming within the provisions of this section, three auditors shall be elected, one for a term of two years, one for a term of four years, and one for a term of six years.

All other officers of the borough shall be elected at such election for terms of two or four years, as the case may be, to coincide with the terms of officers elected under this act at such election in the existing boroughs.

Section 12. Section 806 of said act of May 4, 1927 (Pamphlet Laws 519) is hereby repealed.

Section 13. Sections 807, 810 and 811 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Section 807. Officers to Be Elected.—It shall be lawful for the electors of the borough to elect:

(a) In boroughs not divided into wards, seven councilmen, a burgess, [a high constable,] an assessor, except in those boroughs where the assessment of property for county purposes, under existing laws, is made by a county board of assessors, or by appointed assessors; a tax collector, and three auditors, or a controller.

(b) In boroughs divided into wards, at least one, and not more than [three] *two* councilmen in each ward, [to] *except in boroughs where prior to the passage of this act three councilmen were elected in each ward. In such boroughs the number of councilmen is fixed at three in each ward until such number is reduced in the manner provided by this act. Councilmen shall be residents of the ward from which they are elected, and chosen by the electors of the ward; an assessor in each ward, except in those boroughs where the assessment of property for county purposes, under existing laws, is made by a county board of assessors, or by appointed assessors, to be chosen by the electors of the ward; also a burgess, [a high constable,] a tax collector, and three auditors, or a controller, who shall be chosen by the electors of the boroughs at large.*

Section 806, act of May 4, 1927 P. L. 519, repealed.

Sections 807, 810, 811, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

(b) Councilmen

Section 810. Election of Councilmen.—At the municipal election to be held in the year one thousand nine hundred and [twenty-seven,] *forty-seven*, there shall be elected in each borough a sufficient number of councilmen to equal one-half of the entire number of which such council is legally composed, to serve for a term of four years from the first Monday of January next succeeding, and, where such entire number is seven, nine, or eleven, then sufficient to constitute three, four, or five, as the case may be; the aforesaid councilmen, to be elected in the year one thousand nine hundred and [twenty-seven,] *forty-seven*, being successors to those elected in the year one thousand nine hundred and [twenty-three,] *forty-three*, whose terms, as heretofore provided by law, expire on the first Monday of January, one thousand nine hundred and [twenty-eight] *forty-eight*. All councilmen whose terms expire on the first Monday of January, one thousand nine hundred and [thirty,] *fifty*, shall continue to hold their office until the first Monday of January, one thousand nine hundred and [thirty,] *fifty*, as now provided, and their successors shall be elected at the municipal election in the year one thousand nine hundred and [twenty-nine,] *forty-nine*, to serve for a term of four years, from the first Monday of January next succeeding. Biennially *thereafter, at the municipal election, a sufficient number of councilmen shall be elected, for a term of four years from the first Monday of January next succeeding, to fill the places of those whose terms, under the provisions of this act, shall expire on the first Monday of January next following such election.

Section 811. Election of Councilmen Where New Wards Created.—Whenever the court of quarter sessions shall divide any borough into wards, erect *new wards out of* two or more wards or parts [of two or more wards into one ward,] *thereof* or divide a ward already erected into two or more wards, and when the report, in such case, is confirmed by the court, it shall, at the same time, decree the election of an equal number of councilmen, in each of the wards, in such manner as not to interfere with the terms of those theretofore elected. *Where a borough is first divided into wards, the court shall fix the number of councilmen in each ward at not more than two.* In decreeing such election, when the entire number of council shall be composed of an even number, the decree shall be so made that one-half of the entire number shall thereafter be elected at each municipal election. When the entire number of council shall be an odd number, the court shall divide such council into two classes, and shall make its decrees so that one-half

* "thereafter," in original.

of the entire number of councilmen, less one, shall, as soon as possible, take their office in a year divisible by four, and the remaining number of councilmen shall take their office in an even-numbered year not divisible by four. The apportionment shall be so made by the court that there shall be equal, or as nearly equal as possible, representation by wards in each class. Biennially thereafter, at each municipal election, a sufficient number of councilmen shall be elected, for the term of four years from the first Monday of January next succeeding, to fill the places of those whose terms shall expire on the first Monday of January next following such election.

Section 14. Sections 812 and 813 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Sections 812 and 813, act of May 4, 1927 P. L. 519, repealed.

Section 15. Sections 814, 815 and 816 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 814 to 816, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 814. Fixing Number of Councilmen When Wards Created.—Whenever upon the division of any borough into wards, or the creation of a new ward or wards, the number of councilmen cannot be equally divided among the wards of the boroughs, it shall be lawful for the court, in decreeing such division or creation, to increase the number of council to, and not exceeding, such number as will enable the court to make an equal apportionment of the same among the several wards of such borough. *But where a borough is first divided into wards, the number of councilmen provided for a ward shall not exceed two.*

Section 815. Increase in Number of Councilmen.—The court of quarter sessions, having fixed the number of councilmen, as provided in section eight hundred eleven of this article, may, upon petition of [citizens] *at least five per centum of the registered electors* of the borough, increase the same to any number not exceeding [three] *two* for each ward. *The sufficiency of the number of signers to any such petition shall be ascertained as of the date when the petition is presented to court.*

Section 816. Decrease of Number of Ward Councilmen.—Whenever the electors of any borough divided into wards are authorized, by this act, or by a decree of court, to elect two [or three] members of council from each ward, *or whenever a borough at the time of the enactment of this act shall elect three councilmen from each ward*, the court of quarter sessions may, upon the petition of [twenty citizens] *at least five per centum of the registered electors* of such borough, and after notice

to the council, decrease the number of members of the council to be elected in each of such wards, from two to one, or from three to one or two. *The sufficiency of the number of signers to any such petition shall be ascertained as of the date the petition is presented to court.*

At each municipal election thereafter in such *borough, where there are two members from each ward, the electors of each ward shall elect one councilman, to hold office for a term of four years from the first Monday of January next succeeding his election.

At each municipal election thereafter in such boroughs, where there is one member from each ward, the electors from each of the odd-numbered wards shall, at the first municipal election thereafter, elect one councilman for a term of four years, and the electors from each of the even-numbered wards shall elect one councilman for a term of two years. At each municipal election thereafter, the electors of the even-numbered wards, or odd-numbered wards as the case may be, shall each elect one councilman for a term of four years, to take the place of those whose terms are about to expire. All such councilmen shall take office on the first Monday of January following their election.

In any borough where, under the provisions of this section, the number of councilmen shall be reduced, the councilmen then in office shall remain in office until the end of their respective terms.

Section 817, act of May 4, 1927 P. L. 519, repealed.

Section 16. Section 817 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same is hereby repealed.

Section 820, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 17. Section 820 of said act of May 4, 1927 (Pamphlet Laws 519) is hereby reenacted, revised and amended to read as follows:

(c) Burgess

Section 820. Election of Burgess.—Electors of every borough shall, at the municipal election in the year one thousand nine hundred and [twenty-nine] *forty-nine*, and every four years thereafter, elect one person as burgess, who shall hold office for a term of four years from the first Monday of January next succeeding his election.

Sections 821 and 825, act of May 4, 1927 P. L. 519, repealed.

Section 18. Sections 821 and 825 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 830, act of May 4, 1927 P. L. 519, reenacted.

Section 19. Section 830 of said act of May 4, 1927 (Pamphlet Laws 519) is hereby reenacted to read as follows:

* "boroughs," in original.

(e) Auditors

Section 830. Election of Auditors.—The qualified electors in boroughs electing auditors, and not accepting the provisions of this act providing for the office of controller, shall elect, at each municipal election, one auditor for a term of six years, to hold office from the first Monday of January next succeeding his election.

Section 20. Subdivision (f) of Article VIII and section 835 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 21. Subdivisions (g), (h), (i) of Article VIII and sections 840, 845 and 850 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

[g] (f) Controller

Section 840. Election of Controller.—The qualified electors in every borough having a controller, and in every borough accepting the provisions of this act relating to the controller, shall, at the municipal election in the year one thousand nine hundred and [twenty-nine] *forty-nine*, and every four years thereafter, elect as borough controller one person who shall be a competent accountant and [an] *a registered* elector of the borough for at least four years prior to his election. The person so chosen shall serve for a term of four years from the first Monday of January next succeeding his election.

[(h)] (g) Assessors

Section 845. Election of Assessors.—At the municipal election in the year one thousand nine hundred and [twenty-seven] *forty-seven* and at the municipal election every four years thereafter, the qualified [voters] *electors* of every borough, not divided into wards, shall [vote for and] elect a properly qualified person for assessor in such borough. Where a borough has been or shall hereafter be divided into wards, the qualified [voters] *electors* of each of such wards shall, at the time aforesaid, elect a properly qualified person as assessor for said ward. The provisions of this section shall not [repeal nor affect the provisions of any statute providing for the election of assistant assessors for the performance of duties relating to elections, nor does this section] apply to those boroughs where the assessment of *real* property for county purposes under existing laws is made by a county board of assessors or by appointed assessors.

Subdivision (f) of Article VIII and section 835, act of May 4, 1927 P. L. 519, repealed.

Subdivisions (g), (h) and (i) of Article VIII and sections 840, 845 and 850, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

[(i)] (h) Tax Collector

Section 850. Election of Tax Collector.—The qualified [voters] *electors* of every borough shall, at the municipal election in the year one thousand nine hundred and [twenty-nine] *forty-nine*, and every four years thereafter, [vote for and] elect one properly qualified person as tax collector of the borough.

Sections 901 to 906, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 22. Sections 901 to 906 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE IX

VACANCIES IN OFFICE

Section 901. Filling Vacancies in Elective Borough Offices.—If any vacancy shall occur in the office of burgess, member of council, auditor, controller, [high constable] or tax collector, by death, resignation, removal from the borough, or from a ward in the case of a ward office, or by failure [or neglect] *to take the required oath or to give bond as provided by law or ordinance*, or in any other manner whatsoever, the borough council shall fill such vacancy by appointing, by resolution, a [qualified] *registered* elector of the borough to *hold* such office for the unexpired term of the office.

The person appointed shall give bond if required by law or ordinance.

In cases where the person elected to the office shall fail to give bond, if any, required or to take the required oath, the borough council, before making the appointment, shall declare the office vacant.

[Where a vacancy in the office of tax collector exists, or where a tax collector shall fail to file bond as required by law, and in either case, no resident of the borough can, in the opinion of the council, qualify as required by law, the borough council shall appoint the county treasurer as tax collector for the unexpired term. Where the county treasurer is so appointed, he shall have authority to appoint a deputy to assist in the collection of the taxes set forth in the duplicates delivered to him. The county treasurer shall be entitled to retain for his own use, so much of the commissions payable for the collection of said taxes, as may be required for the payment of his deputy, and the premium on his bond, and shall not be required to pay the same over to the county, but any commissions over and above such costs shall belong to the county to reimburse the county for office rent, light, heat, telephone service, compensation, insurance, supplies, postage, and equipment. The salary board of the county, or where there is no salary board, then the county commissioners shall fix the com-

pensation of any deputy appointed. If the county treasurer, so appointed shall fail to file bond, the borough council shall appoint any suitable resident of the county to perform the duties of tax collector for the unexpired term.

If no person can be found within the borough to accept appointment as tax collector for the borough, the council of the borough may proceed to collect its taxes through its treasurer, or secretary, as tax collector, who shall not be required to give additional bond but shall otherwise have the powers and perform all the duties of the tax collector, or the borough may notify the county commissioners that the borough is without a tax collector and that it desires the county commissioners to collect such taxes. Thereupon, the county commissioners shall proceed to collect the taxes for the county and the borough, and also the school district, unless the school district has appointed a tax collector or desires to collect its taxes directly through its own treasurer or secretary, which it shall have the power to do, without requiring additional bond from such treasurer in the same manner as above provided for the borough.

The county commissioners shall, in any such case, have power to collect the taxes for the county, and for any borough, and school district, and shall perform all the duties and have all the powers herein conferred on tax collectors; and shall have power to appoint a deputy as herein provided, where the county treasurer is appointed and to fix his compensation. The county commissioners shall pay the amounts received over to the county treasurer, who shall pay to the borough and school district, taxes received for their use, less such amount as is allowed as a commission for the collection of such taxes, which shall be retained for the use of the county to reimburse the county for the costs incurred by the county commissioners in collecting such taxes. The county commissioners shall not be required to give any bond for the duties herein imposed, nor shall they receive any compensation for collecting such taxes. The county commissioners shall, where they collect taxes as herein provided, have all the powers and perform all the duties vested in collectors of county, borough, and school taxes.]

Section 902. [When Court to Fill Vacancies.—If the council of any borough shall refuse, fail, or neglect, or be unable for any reason whatsoever, to fill any vacancy, within thirty days after the vacancy happens, as provided by the preceding section, then the court of quarter sessions shall, upon petition of the burgess or council or five citizens, fill the vacancy in such office by the appointment of a qualified resident of the borough for the

unexpired term of the office.] *Collection of Taxes Where Vacancy in Office of Tax Collector Not Filled.*—Where a vacancy in the office of tax collector exists and no resident of the borough has, within thirty days, received the appointment to fill such vacancy, the county commissioners, the borough council and the board of school directors of the school district shall collect the tax for the county, the borough and the school district, respectively, through their respective treasurers, or in the case of school districts and boroughs at the option of the district or borough through their respective secretaries. No such county, borough or school district treasurer or secretary shall be required to give bond, unless required to do so by the taxing district. Treasurers and secretaries shall have all the powers and perform all the duties imposed on tax collectors. Such treasurers and secretaries for performing such duties shall be entitled to the compensation provided by law for the collection of such taxes.

Section 903. Assessor.—Vacancies in the office of assessor shall be filled as now provided by law.

Section 904. Right of Council to Declare Seat of Councilmen Vacant for Failure to Qualify.—If any person, elected or appointed as a member of council, who has been notified of his election or appointment, shall refuse or neglect to qualify as such member of council within ten days next succeeding the beginning of his term of office, unless prevented by sickness or prevented by necessary absence from the borough, the borough council, acting without such person, may declare his office as member of council vacant, and may fill such vacancy as provided in section nine hundred one of this act. For such actions a majority of the remaining members of the council shall constitute a quorum.

Section 905. Right of Council to Declare Seat of Councilman and Burgess Vacant for Failure to Attend Meetings, Etc.—If any person, having qualified as a member of council or burgess, shall neglect or refuse to attend two successive regular meetings, unless detained by sickness, or prevented by necessary absence from the borough, or if, a councilman in attendance at any meetings, shall neglect or refuse to vote or by his withdrawal from council or otherwise refuse to act in his official capacity as a member of council, or if the burgess in attendance at any meetings shall neglect or refuse to cast the deciding vote as required by section 1003 of this act, the borough council, acting without such person, may declare his office as a member of council or burgess vacant, and may fill such vacancy as provided

in section nine hundred one of this act. For such actions a majority of the remaining members of the council shall constitute a quorum.

Section 906.—*Temporary Auditor*.—If for any reason two or three vacancies exist in the office of borough auditors, the council may temporarily appoint and reasonably compensate a qualified person, who need not be an elector of the borough, who shall have all the powers and duties of the two or three auditors whose offices are vacated.

Section 23. Sections 1001 to 1017 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 1001 to 1017, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE X

POWERS AND DUTIES OF ELECTED BOROUGH OFFICERS

(a) Council

Section 1001. Organization of Council; *Quorum*; No Compensation; Eligibility.—The borough council shall organize at eight o'clock post meridian on the first Monday [after the first day] of January of each even-numbered year, by electing a president, treasurer, and secretary, which shall constitute the organization of council. The council may at the organization meeting elect such other officers as may be provided for by law or ordinance, or as may be deemed necessary for the conduct of affairs of the borough. The president shall preside over the meetings of council and, when absent, his place shall be filled by a president pro tempore. A majority of the entire membership of council shall constitute a quorum. [The councilmen shall not receive any compensation for their services as councilmen.] *The councilmen may receive compensation to be fixed by ordinance at any time and from time to time as follows: In boroughs whose population is seven hundred fifty (750) or less, a maximum of five dollars (\$5) a month; in boroughs whose population is more than seven hundred fifty (750) and not more than fifteen hundred (1500), a maximum of ten dollars (\$10) a month; in boroughs whose population is more than fifteen hundred (1500) and not more than twenty-five hundred (2500), a maximum of fifteen dollars (\$15) a month; in boroughs whose population is more than twenty-five hundred (2500) and not more than five thousand (5000), a maximum of twenty dollars (\$20) a month; in boroughs whose population is more than five thousand (5000), a maximum of twenty-five dollars (\$25) a month.*

The population shall be determined by the latest United States decennial census or by two and one-half (2½) times the number of registered voters in the borough. No compensation shall be paid in any month to a councilman who has failed to attend at least one regular meeting of council during the month. A school director shall not be eligible to the office of member of council.

Section 1002. Oath of Councilmen.—Before entering upon the duties of their office, the councilmen shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform the duties of their office with fidelity. The oath or affirmation may be taken before any judge or justice of the peace of the county, or before the burgess of the borough when he has qualified, and shall be [entered upon or] filed *with the borough secretary and be preserved among the records of the borough for a period of six years.*

Section 1003. When the Burgess May Preside Over Council and Vote; *Attendance of Burgess at Council Meetings; Breaking Tie Votes.*—The burgess shall preside over the organization of the council, until it is organized as provided in section [one thousand one,] 1001, and he shall be deemed a member of council at the organization meeting if his membership becomes necessary to constitute a quorum, but he shall not vote thereat unless his vote shall, for any reason whatsoever, be required to effect the organization of council, or to elect any officer who is required to be or may be elected at the organization meeting. In case of the unavoidable absence of the burgess at the organization meeting, one of the members of council, chosen by the members present at the meeting, shall preside.

The burgess shall attend all regular meetings of council unless detained by sickness or prevented by necessary absence from the borough. In all cases where, by reason of a tie or split vote, the council of any borough shall be unable to enact or pass any ordinance, resolution or motion, or to declare or fill any vacancy in its membership, or in any other borough office, [and such disagreement shall continue until the next regular meeting of council,] it shall be the duty of the burgess of such borough to [attend said meeting and] cast the deciding vote.

Section 1004. Failure of Council to Organize.—If the council of any borough shall fail to organize within ten days from the time prescribed in this article, the court of quarter sessions, upon the petition of ten [taxable inhabitants,] *registered electors* verified by the affidavit of [five] one of the petitioners, shall issue a rule

upon the delinquent *councilmen* to show cause why their seats should not be declared vacant. The rule shall be returnable not less than five days from the time of its issue and, after hearing, the court may declare the seats of such [delinquent] councilmen, *as are responsible for such failure to organize*, vacant, and appoint others in their stead, who shall hold their office for the [unexpired term] * *respective unexpired terms*.

Section 1005. [Selection of High Constable Where Boroughs Consolidated.—Whenever two or more boroughs are consolidated under the provisions of this act, the council of the new borough, at the first meeting after such consolidation, shall designate, by ballot, which of the high constables and auditors shall perform the duties of those offices in the new borough, and the person so chosen shall hold their office until the first Monday of January next succeeding the municipal election at which such officers are regularly elected as provided in this act. The council shall also designate, by ballot, which of the treasurers shall perform the duties of that office in the new borough, and shall select some person as secretary of the council.] *Powers of Council.—The council of the borough shall have power:*

I. *To appoint a solicitor, an engineer, a street commissioner and such other officers as it deems necessary.*

II. *To mitigate or remit fines and forfeitures in reasonable cases.*

III. *By resolution, to make temporary loans on the credit of the borough in anticipation of taxes to be collected, and to issue certificates of indebtedness therefor. All such loans shall be repaid from the first moneys available from taxes in anticipation of which the same were made.*

IV. *To appoint and revoke the appointment of one or more depositories for borough funds and to fix and approve security to be furnished by any such depository. Such security may be bonds with corporate or individual securities to be approved by council, or collateral security consisting of obligations of the United States or the Commonwealth of Pennsylvania, or any political subdivision thereof, deposited with the borough or with any bank or trust company within the Commonwealth of a market value of one hundred and twenty per centum of the amount of the deposit to be secured. Any deposit of collateral shall be under proper agreement and be accompanied by proper assignment or power of attorney for the transfer of the collateral. The borough treasurer shall deposit all borough funds in any depository so designated, and when so deposited, the borough treasurer shall be released and discharged*

* "the," in original.

from further liability on account of such deposit. Nothing herein contained shall be construed to require a depository to furnish bond or collateral security to cover the amount of any deposit to the extent that the same is insured with the Federal Deposit Insurance Corporation.

V. To secure such indemnity bonds or policies of insurance as it may deem necessary to protect the borough from loss by reason of fire, flood, windstorm, burglary, larceny, negligence or dishonesty, insolvency of a depository, or otherwise, and to pay for such protection the usual or customary costs.

VI. To make temporary investment of borough funds, whether they be general, special or sinking fund in bonds of the Federal Government, the Commonwealth of Pennsylvania, the bonds of the borough, or in any other securities authorized by law for the investment of sinking funds of municipalities, when in its judgment the interests of the borough will be enhanced thereby, and to dispose of such securities when the funds may be needed by the borough. Any such purchase or sale shall be made by the president and secretary of council on a resolution adopted by the council.

VII. To employ a certified public accountant by a two-thirds vote of the entire number of councilmen elected.

VIII. To make, authorize and ratify expenditures for lawful purposes from funds available therefor or from funds borrowed within legal limits.

Section 1006. Duties [and Powers] of Council.— [The borough council, a majority of whom shall be a quorum, shall have power and unless discretion is vested, it shall be its duty:] *It shall be the duty of the borough council:*

I. To meet stately at least once a month. Council may adjourn to a particular time for general business or for special business. If no quorum [be] is present at [such] a regular or adjourned meeting, a majority of those who do meet may agree upon another date for like business and may continue to so agree until the meeting is held. Special meetings may be called by the president of council or upon written request of a least one-third of the [persons who are] members [of council] thereof. Members shall have at least twenty hours' notice of such special meetings. The notice shall state whether it [be] is for general or special purposes, and, if it [be] is for special purposes, the notice shall contain a general statement of the nature of the business to be transacted. Presence at a meeting constitutes waiver of notice. Council may adopt rules relating to

the calling and holding of all meetings, which rules shall supersede the provisions of this section.

II. To make and preserve full records of [their] *its* proceedings.

III. To enact, revise, repeal, and amend, such [laws] *by-laws*, rules, regulations, [and] ordinances *and resolutions*, not inconsistent with the laws of the Commonwealth, as it shall deem beneficial to the borough and to provide for the enforcement of the same. *The legislative powers of boroughs, including capital expenditures not payable out of current funds, shall be exercised by or be based on an ordinance. All other powers shall be exercised by vote of the majority of council present at a meeting, unless otherwise provided. Routine, ministerial or administrative purchases and powers may be made and exercised by officers or committees, if authority therefor was previously given, or if the action is subsequently ratified by council.*

IV. Except where otherwise in this act provided, to publish, *every ordinance or resolution of a legislative character* *once in one newspaper [printed in the county, every enactment, regulation, ordinance, or other general law at least ten days before the same shall take effect.] *of general circulation in the borough.*

V. To cause notices to be served, as required by law, or ordinance, in a manner council may by motion or other action decide.

VI. To keep open for public inspection, in a place provided by the borough, any plans of highways that may be made.

VII. To appoint and remove a treasurer and secretary. [Council in its discretion may appoint a solicitor, a street commissioner, and such other officers as it shall deem necessary.] The treasurer and secretary shall not be members of council.

VIII. To fix the compensation of the treasurer *and* secretary, [street commissioner, high constable] and such other officers, *appointees* and employes as [they] *it* may appoint, to be paid from the borough treasury by orders drawn thereon.

IX. To fix the amount of security to be given by the treasurer, [collector of borough taxes, the high constable,] and of such other officers, *appointees* and employes as it may designate.

[X. To direct annually the publication of the accounts of the treasurer.]

[XI. In its discretion, to mitigate or remit fines and forfeitures, in reasonable cases.]

* "once," omitted in original.

[XII. Whenever the borough funds have been exhausted, the borough may, by resolution, make temporary loans on the credit of the borough, in anticipation of taxes to be collected, and to issue a certificate of indebtedness therefor. All such loans shall be repaid from the first moneys available from taxes in anticipation of which the same were made.

XIII. To appoint, and revoke appointment, of one or more depositories for borough funds, and to fix and approve security to be furnished by any such depository.

The borough may accept from a depository as security for its deposits bonds with corporate or individual securities, to be approved by council, or the depository may deposit as collateral security with the borough, or with any bank or trust company within the Commonwealth which may be agreed upon, United States, municipal or county bonds of a market value of one hundred and twenty (120%) per centum of the amount of the deposit to be secured. Such deposit of collateral shall be under proper agreement, and accompanied by proper assignment or power of attorney for the transfer of the bonds.

When funds of a borough are deposited in a designated depository, the deposit shall be in the corporate name of the borough and withdrawn therefrom as provided in section 1105.

XIV. The borough treasurer shall deposit all such funds in the depository or depositories designated by the borough, and when so deposited, the borough treasurer shall be released and discharged from further liability.

XV. To secure such indemnity bonds or policies of insurance as they may deem necessary to protect the borough from loss by reason of fire, windstorm, burglary, larceny, dishonesty of employes, insolvency of depository, or otherwise, and to pay for such protection the usual or customary costs.

XVI. To make temporary investment of borough funds, whether they be general, special or sinking fund, in bonds of the Federal Government, the Commonwealth of Pennsylvania or bonds of the borough when, in its judgment, the interests of the borough will be enhanced thereby, and to dispose of any such securities when the funds may be needed by the borough. Such purchase or sale to be made by the president and secretary of council on a resolution adopted by the council.

XVII. In its discretion, to employ certified public accountants by a two-thirds vote of the entire number of councilmen elected.]

[XVIII. To adopt an annual budget. During the month of January, a proposed budget or annual estimate of revenues and expenditures shall be prepared in a manner designated by the council. The budget shall be prepared on a uniform form, prepared and furnished as hereinafter provided.

For ten (10) days a copy of the proposed budget shall be on file with the borough secretary, and by him made available for public inspection. Notice that the proposed budget is available for inspection shall be published either in a newspaper of general circulation in the borough, or in the case of boroughs whose estimated budget receipts are less than five thousand dollars (\$5000.00), conspicuously posted during the said ten (10) day period in a place readily viewable by the public, at the secretary's office, together with any further notice prescribed by council. Failure to give the notice herein required shall not invalidate the budget adopted or the tax ordinance, but shall render the secretary guilty of a misdemeanor, and on conviction thereof, may be sentenced to a fine not exceeding one hundred dollars (\$100.00) as may seem meet and just to the court passing sentence.

After the expiration of the said ten (10) days, council shall make such revision in the budget as shall be deemed advisable. In addition to expenditures proposed for the current fiscal year, council may include as proposed expenditures a sum sufficient to pay any existing indebtedness, and to pay the ordinary operating expenses for the subsequent year until the taxes of the subsequent year are received therefor, and may also include a sum to provide in whole or in part for any deferred maintenance, depreciation and replacements. Within the tax levy and debt limitations, council may also include, in whole or in part, expenditures for capital improvements and purchases. Expenditures of a legislative character shall be made, authorized or ratified by ordinance. Other expenditures allowed by law may be made or ratified by motion in council. Such expenditures, whether by ordinance or motion, shall then be considered as appropriations affecting the budget. Any balance of revenues over expenditures may be expended in any subsequent year for any lawful purpose.

Upon completion of the budget, containing the estimated receipts and expenditures, and its adoption by motion in council, it shall then be the duty of council to adopt an ordinance levying the tax for the fiscal year, for approval of the burgess, or passage over his veto. The fixing or changing of the compensation or bonds of officials may be made by vote of council or embodied in the tax ordinance. An ordinance relating to the

fiscal affairs of the borough may include the tax ordinance aforesaid instead of a separate ordinance, and it may include therein any matters requiring the formalities of an ordinance or deemed informative by council.

The budget both preliminary and final shall be as comprehensive and exact as the information available will admit, but council in its reasonable discretion may, by motion, modify the budget after its final adoption. New appropriations, supplementary appropriations and transfers from one appropriation to another may be made during the fiscal year, either before an expenditure is authorized, or ratified after the expenditure is made, provided it is within the current year's revenues, or the money therefor promptly made available through borrowing as allowed by law.]

Section 1007. Passage, Approval, and Veto of Ordinances.—Every ordinance and resolution, except as herein otherwise provided, passed by the council, shall be presented to the burgess for his approval. If the burgess [approve] *approves*, he shall sign it; but, if he shall not so approve, he shall return it with his objections to the council at its next regular meeting, when the objections shall be entered upon the minutes and the council shall proceed to a reconsideration thereof. If, after such reconsideration, two-thirds of all the members elected to said council, or a majority of council plus one, when the number composing such council is less than nine, shall vote to pass such ordinance or resolution, it shall become of as full force and effect as if it had received the approval of the burgess; but in such case the vote shall be determined by yeas and nays, and the names and votes of the members shall be entered on the minutes. If any such ordinance or resolution shall not be returned by the burgess at the regular meeting of the council next succeeding its presentation to him, it shall likewise have as full force as if it had been approved.

Section 1008. Recording, [and] Advertising and Proof of Ordinances; Codification of Ordinances.—(a) No ordinance, or resolution of a legislative character, in the nature of an ordinance, shall be considered in force until the same is recorded in the ordinance book of the borough and [is] *has been* advertised as provided in this article. [That all] *All* ordinances, or resolutions of a legislative character in the nature of an ordinance, may be proved by the certificate of the borough secretary [or clerk], under the corporate seal, and, when printed or published in book or pamphlet form and purporting to be published by the authority of the borough, shall be read and received as evidence in all courts and places without further proof. All borough

ordinances shall, within one month after their passage, be recorded by the borough secretary [or clerk] in a book provided for that purpose, which shall be at all times open to the inspection of citizens. [Ordinances heretofore passed within five years prior to the date of this act, and not so recorded, may now be recorded and effective under the provisions of this section.] The entry of the borough ordinance in the ordinance book by the secretary [or clerk] shall be sufficient, without the signature thereto of the president of council, Burgess or other person.

[Section 1008.1 Adoption of Codification of Ordinances.—] (b) Whenever any borough shall have caused to be prepared a consolidation, codification or revision of the general body of borough ordinances, or *the ordinances on a particular subject*, the borough council may adopt such consolidation, codification or revision as an ordinance of the borough, in the same manner that is now prescribed by law for the adoption of borough ordinances, except as hereinafter provided.

Any such consolidation, codification or revision of borough ordinances to be enacted as a single ordinance shall be introduced in the borough council at least thirty days before its final enactment, and at least fifteen days before its final enactment, notice of the introduction of *any* such consolidation, codification or revision, specifying its general nature and content, shall be given by advertisement in a newspaper of general circulation in said borough. [or if there be no newspaper of general circulation in said borough, then by the posting of at least ten handbills in conspicuous places in the borough.]

When any such consolidation, codification or revision has been enacted as an ordinance [in the manner aforesaid], it shall not be necessary to [publish or] advertise the entire text thereof, but it shall be sufficient in any such case, to publish or advertise the table of contents thereof in the manner provided by law for the [publishing or] advertising of ordinances. Such [publication or] advertisement shall, in addition to setting forth the table of contents, specify that the [consolidation, codification or revision] *ordinance* is only a consolidation, codification or revision of existing ordinances, or *ordinances on a particular subject*, and shall indicate a place within the borough where a copy thereof may be examined.

Section 1009. Typewritten Records Valid.—All borough records, required to be recorded or transcribed, shall be deemed valid if typewritten, and all records heretofore recorded or transcribed by typewriter are validated.

Section 1010. Appeals from Ordinances.—Complaint *as to the legality of any ordinance or resolution* may be made to the court of quarter sessions, upon entering into recognizance with sufficient security to prosecute the same with effect and for the payment of costs, by any person aggrieved, within thirty days after any ordinance or resolution takes effect, and the determination and order of the court thereon shall be conclusive. [The court shall have jurisdiction to review the propriety as well as the legality of ordinances] *In cases of ordinances effecting annexation of territory or laying out streets over private lands, the court shall have jurisdiction to review the propriety as well as the legality of the ordinance.*

Section 1011. Lost Ordinance Books to be Replaced; Transcribing Ordinances.—Whenever any ordinance book is lost, destroyed, or becomes unserviceable, the borough council may provide by ordinance for a new ordinance book, into which shall be transcribed by the secretary all of the then valid ordinances. The secretary, in transcribing such ordinances, shall make complete copies thereof, including the date of enactment and approval and the names of the officers who signed the same and, after notice given, *as hereinafter provided*, and corrections made, shall certify each ordinance as a correct copy of the original.

Section 1012. Ordinance Providing for Transcribing; Notice.—The ordinance providing for the transcribing of such ordinances shall be recorded in such book, immediately following the ordinances so transcribed, and it shall provide that the secretary of the borough, upon the completion of such transcribing, shall publish once a week for four weeks, in one newspaper published in the borough, and, if there be no such publication, then in a newspaper [published in the county] *circulating in the borough*, a notice stating that all of the then valid ordinances of the borough have been transcribed into a new ordinance book, and that the old books and records of borough ordinances and the new ordinance book are open to public inspection for the purpose of verification and correction during the thirty days from the date of the notice.

Section 1013. Certificate of Secretary.—The secretary of the borough, at the expiration of such notice, shall make all corrections, and shall then certify that all of the ordinances have been compared with the originals and that they are correct copies thereof. After the ordinances are transcribed, notice thereof given, and the certificate of correction made, [as provided in the preceding sections of this article,] the ordinances

so transcribed shall take the place of the original record and shall be the valid and legal ordinances of the borough.

Section 1014. Hearings Before Council; Witnesses.—Borough councils may compel the attendance of witnesses and the production of books, papers, or other evidence, at any meeting of the council, or any committee thereof, and, for that purpose may issue subpoenas, signed by the president of council or the chairman of the committee, and cause the same to be served in any part of this Commonwealth. If any witness shall refuse to testify to any fact within his knowledge, or to produce any books or papers in his possession or control, required to be used as evidence in any such case, the secretary of the council shall report the facts relating to such refusal to the court of common pleas. If the court determines the evidence required of such witness to be legal and competent, it shall order such witness to testify or produce the evidence required.

Section 1015. Witness Fees and Mileage.—No person residing without the borough, and subpoenaed as aforesaid, shall be required to respond to the same until mileage to and from the borough, at the rate of ten cents a mile, and [a per diem allowance of two dollars for the time their presence is desired, has] *witness fees as required by law relating to witnesses, have been furnished.*

Section 1016. Examination of Witnesses; Penalty.—Any person called as a witness, as provided in this article, may be examined under oath, *administered by the president of council or chairman of the committee* and, for the giving of false testimony, shall be liable to indictment and punishment for perjury.

Section 1017. State Association of Boroughs.—The boroughs of the Commonwealth are authorized to organize a State Association of Boroughs for the purpose of advancing the interests of the boroughs. Any borough may join the said association by motion of council and payment of the annual dues. Council may designate one or more delegates from the elected or appointed officials of the borough to attend the annual meeting of the association, which shall be held in accordance with the procedure adopted by the association. In addition to any compensation allowed by law the actual expenses of the delegates, including transportation incurred by delegates for or incident to such meeting, shall be paid by the borough. The time spent in attending said meeting shall not be more than three days, exclusive of the time employed in traveling thereto and therefrom. [The annual membership dues of each borough becoming a

member of the said association shall not exceed the sum of fifteen dollars for boroughs of one thousand population and less, and in addition thereto, the sum of two dollars per thousand of population or fractional part thereof, not, however, exceeding a total additional fee of eighteen dollars.] *Each borough, becoming a member of the association, shall pay such reasonable dues as may be fixed by the association, but such dues for boroughs having a population of less than one thousand shall not exceed fifteen dollars.*

The dues and other revenues received by the association shall be used to pay for services, publications and other expenses authorized or ratified by the association, or incurred in behalf of the association, by its officers and committees.

Section 1018, act of May 4, 1927 P. L. 519, repealed.

Section 24. Section 1018 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same is hereby repealed.

Sections 1020 to 1028, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 25. Sections 1020 to 1028 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

(b) Burgess

Section 1020. Eligibility of Burgess.—No burgess shall hold any other borough office or appointment during the term for which he is elected, but he shall be eligible to succeed himself. He shall attend all regular meetings of the council, but shall not be a member of, nor preside or vote at the meetings of the council, except as provided in section ten hundred and three of this act.

Section 1021. Incompatible Offices [; Penalty].—No member of Congress, or any person holding any office or appointment of profit or trust under the Government of the United States, shall be capable of holding the office of burgess.

[Any person violating the provisions of this section shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars, and the office of burgess shall be considered vacant.

Any penalty imposed under this section shall be paid, one-half to the overseers, guardians, or directors of the poor of the borough or county where such offense is committed, to be applied for the support of the poor, and one-half to the prosecutor.]

Section 1022. Oath of Burgess.—The burgess, before exercising the duties of his office, shall take and subscribe an oath or affirmation, [and the same shall be filed as provided in section one thousand and two of this act.] *to support the Constitution of the United States and of*

the Commonwealth of Pennsylvania and to perform the duties of his office with fidelity. The oath or affirmation may be taken before any judge or justice of the peace of the county, and shall be filed with the borough secretary, and be preserved among the records of the borough for a period of six years.

Section 1023. Salary of Burgess; Fixed by Ordinance.—The salary of the burgess may be fixed by ordinance, to be paid from the borough treasury in monthly or semi-monthly *instalments on warrants authorized by the council. [When so fixed, such salary shall not be changed during the term of the incumbent.] *The salary or compensation of a burgess shall not be increased or decreased oftener than once in two years.*

Section 1024. Salary of Burgess Limited.—The salary of the burgess shall not exceed, per annum, one hundred dollars per thousand for the first [five] *ten* thousand population or fraction thereof; [and fifty dollars per annum for each additional one thousand of population or fractional majority thereof:] the population to be determined by the last United States decennial census, or by [five] *two and one-half* times the number of registered electors in the borough, as shown by the last registration thereof, *whichever may be the greater*: Provided, however, That, in any borough whose population, [calculated as aforesaid] shall exceed ten thousand, the borough council may, by ordinance, fix the salary of the burgess at any sum not exceeding two thousand dollars; *and in boroughs whose population shall exceed twenty thousand, the borough council may by ordinance fix the salary of the burgess at any sum not exceeding three thousand dollars.*

**Section 1025. Salaried Burgess Not to Receive Fees.—Any salary paid pursuant to an ordinance shall be in lieu of all costs and fees allowed a burgess, whether acting as burgess or justice of the peace, and in such case, the costs and fees shall be taxed and collected by the burgess and turned [monthly] into the borough treasury. [together with a sworn statement of the same.]

Section 1026. Burgess to Collect Costs and Fees.—In all cases where the burgess is given the jurisdiction of a justice of the peace, he shall collect the same costs and fees as is charged by justices of the peace for like services, and, in all other cases, he may collect such costs and fees as are allowed by law to a justice of the peace for services of a similar character. [Provided, however, That he] *He* shall procure a docket, in book or loose-leaf form, wherein he shall enter all cases and charges, which docket shall be open to public inspection at reasonable times.

* "installments," in original.

** "Secton," in original.

Section 1027. General Powers of Burgess.—The burgess shall have power:

I. To administer oaths and affirmations in matters pertaining to borough affairs.

II. To exercise jurisdiction in all disputes, between the borough and individuals, arising under the ordinances, rules and regulations of the borough.

III. To exercise the powers and jurisdiction of justices of the peace in the enforcement of all ordinances of the borough, and the collection of fines and penalties imposed thereunder; and to sentence any person violating any such ordinance to detention in the lockup, county jail, or workhouse, as hereinafter provided.

IV. To exercise the powers and jurisdiction of justices of the peace within the borough for the suppression of riots, tumults, and disorderly meetings; and in all criminal cases for the punishment of vagrants and disorderly persons.

Section 1028. Duties of Burgess.—It shall be the duty of the burgess:

I. To preserve order in the borough; to enforce the ordinances and regulations; to hear complaints; to remove nuisances; and to exact a faithful performance of the duties of the officers appointed.

II. To demand and receive sufficient security, in the amount fixed by the *council of the borough*, from the treasurer [and high constable].

III. To sign such papers, contracts, obligations, and documents as may be lawfully required by council.

IV. To keep correct accounts of all fees, fines, and costs, received by him; to render to the councils at each regular meeting an itemized statement of all such moneys so received since the last regular meeting of the council, with the dates at which and the names of the persons from whom the same was received, and to pay all such moneys into the borough treasury prior to such regular meeting, *except such costs and fees as he may be authorized to retain in lieu of salary*. [deducting therefrom] *The burgess shall be reimbursed by the borough for the costs of such dockets, books and forms, not to exceed twenty-five dollars in the aggregate for any one year, as are directly useful in the conduct of [the] his office [to be reported to council, and to be and]. Such dockets, books and forms shall be and remain the property of the borough, and [to] shall be surrendered to his successor in office.*

V. To cause to be opened all public roads *or streets*, [lanes, or alleys,] lying *within or partly within the borough*.

Section 26. Section 1029 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same is hereby repealed.

Section 1029, act of May 4, 1927 P. L. 519, repealed.

Section 27. Section 1030 of said act of May 4, 1927 (Pamphlet Laws 519) is hereby reenacted to read as follows:

Section 1030, act of May 4, 1927 P. L. 519, reenacted.

Section 1030. When President of Council to Act as Burgess.—Whenever the burgess is absent or incapacitated, the duties of his office shall be discharged by the president of council. While discharging the duties of the burgess, the president of council shall be entitled to the same salary or fees as the burgess would receive, and, during the time such salary is paid to the president of council as acting burgess, the burgess shall not be paid compensation.

Section 28. Subdivision (c) of Article X and sections 1031, 1032, 1033 and 1034 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Subdivision (c), Article X and sections 1031 to 1034, act of May 4, 1927 P. L. 519, repealed.

Section 29. Subdivision (d) of Article X and sections 1035 to 1053 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Subdivision (d), Article X and sections 1035 to 1053, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

[d] (c) Auditors

Section 1035. Auditors to Meet Yearly, and [Prepare a Financial Statement; Financial Report to be Furnished to Department of Internal Affairs] Audit Accounts; Uniform Forms.—(a) The auditors of the borough shall meet on the third Tuesday of January of each year. [and]

(b) *The auditors shall audit, adjust, and settle the accounts of the tax collectors and all officers of the borough, and of any person, committee, and commission receiving or expending [municipal] borough funds; and shall prepare a [statement thereof] report thereof, which shall contain an audit of the accounts of the last fiscal year, and shall also show a complete statement of the financial condition of the borough, giving in detail the actual indebtedness, the amount of the funded debt, the amount of the floating debt thereof, the valuation of taxable property therein, the assets of the borough with the character and value thereof, and the date of maturity of the respective forms of funded debt thereof. Such [statement] report shall be prepared within sixty (60) days after the close of the fiscal year. [A summary of such statement showing in reasonable detail all receipts and expenditures of the several borough officials, the income from each source of revenue, and the expenditures as set up in the borough budget, as well as the*

present financial conditions of the borough, and a statement of the balance due from or to such officials shall be published one time in one newspaper of general circulation, and shall be in lieu of all other statements relating to indebtedness required to be published by existing law.]

(c) The amount of any balance or shortage, or of any expenditure of a kind, or made in a manner, prohibited or not authorized by statute, which causes a financial loss to the borough, shall be a surcharge against any officer against whom such balance or shortage shall appear, or who by vote, act, or *neglect, has permitted or approved such expenditure, but no elected or appointed official of a borough shall be surcharged for any act, error or omission in excess of the actual financial loss sustained by the borough, and any surcharge shall take into consideration as its basis the results of such act, error or omission and the results had the procedure been strictly according to law. [: Provided, That this amendment] *The provisions hereof limiting the amount of any surcharge shall not apply to cases involving fraud or collusion on the part of officers, nor to any penalty enuring to the benefit or payable to the Commonwealth.* [and : Provided, further, That in]

(d) *In any matter involving any financial transaction, any official knowingly and wilfully acting contrary to law, **or, knowingly ***and wilfully failing to act as required by law, is guilty of a misdemeanor, and, on conviction thereof, may be sentenced to a fine not exceeding one hundred dollars (\$100.00), and his office may be forthwith declared vacant as may seem meet and just to the court passing sentence.*

(e) After such [statement] *report* has been prepared and executed by the auditors, it shall be the duty of the *secretary of the borough to retain a copy and to file a copy of the report with* [secretary of the borough to furnish to] *the clerk of the court of quarter sessions of the county and the Department of Internal Affairs.* [a report of such statement, transcribed on a uniform form prepared and furnished as hereafter provided.] Such reports shall be [signed by the auditors and the secretary, and shall be filed with the department within ninety (90) days after the close of the fiscal year.] *filed by the secretary of the borough not later than the fifteenth day of April.* Any secretary of the borough refusing or wilfully neglecting to file such report shall, upon conviction in a summary proceeding [brought at the instance of the Department of Internal Affairs], be sentenced to pay a fine of five dollars for each day's

* "neglect," in original.
 ** "and," in original.
 *** "or," in original.

delay beyond [April first] *the last day for filing such report*, and costs. If the failure to file such report within the period specified is due to the failure of the auditors to prepare the statement upon which said report is to be based, said fine shall be imposed upon *all of the auditors*. [and not upon the Secretary. All fines recovered shall be for the use of the Commonwealth.]

(f) The uniform forms for the [annual budget, and for the] annual *auditors' report* [to the Department of Internal Affairs to be used as herein provided] *and the annual financial statement, hereinafter required to be made*, shall be prepared by a committee [consisting of four representatives from the Pennsylvania State Association of Boroughs, and the secretary of the Department of Internal Affairs, or his agent] *as provided in Article XIII of this act*.

[Such representatives shall be appointed by the president of the organization within sixty (60) days after the effective date of this act. Such representatives shall be chosen from among finance officers or other officers of boroughs who have knowledge of their fiscal procedures. As far as possible, they shall be chosen to represent boroughs in the various population groups. The president of the organization shall supply to the Department of Internal Affairs the names and addresses of such representatives immediately upon their appointment.

Such representatives shall serve without compensation, but shall be reimbursed by the Commonwealth for all necessary expenses incurred in attending meetings of the committee. The committee shall meet at the call of the Secretary of Internal Affairs, or his agent, who shall serve as chairman of the committee.

In preparing the uniform forms for both budgets and annual reports, the committee shall give careful consideration to the fiscal needs and procedures of boroughs of the various population groups, producing separate forms if necessary, to the end that such forms shall not be inconsistent with the general administrative practices of boroughs of various types and sizes.

It shall be the duty of the Secretary of Internal Affairs, or his agents, to see to it that the forms required by this act are prepared in cooperation with such committee. In the event that the committee should for any reason fail to furnish such cooperation, the Secretary of Internal Affairs, or his agent, shall prepare the forms. After their preparation, he shall issue such forms and distribute them annually, as needed, to the proper officers of each borough.]

Section 1036. Orders and Vouchers to Be Marked "Audited".—All orders, [and] vouchers *and certificates of indebtedness*, which have been paid, shall, on their

presentation to the auditors, be cancelled by writing the word "audited" on the face thereof.

Section 1037. [Auditors to Post and File Statement in Court] *Completion of Auditors' Report; Publication of Financial Statement.*—The auditors shall complete such audit, adjustment, and settlement, as soon as possible. [and] *The auditors* shall, within ten days thereafter, publish, by [posting printed or typewritten handbills in five public places in the borough, an itemized statement of the *receipts and expenditures of the several officers for the preceding year, certifying therein the date on which such audit was completed. They shall also, within such period of ten days, file a copy of the statement with the secretary of the borough, and also with the clerk of court of quarter sessions of the county, certifying therein the date on which such audit was completed, which shall be at all times subject to public inspection. A copy of such statement shall also be filed with the Secretary of Internal Affairs. Whenever two or more borough offices shall be exercised by the same person, only one statement shall be required.] *advertisement in at least one newspaper of general circulation published in the borough, or if no such newspaper is published in the borough, then in such a newspaper circulating in the borough, a concise financial statement setting forth the balance in the treasury at the beginning of the fiscal year, all revenues received during the fiscal year by major classifications, all expenditures made during the fiscal year by major functions, and the current resources and liabilities of the borough at the end of the fiscal year, the gross liability and net debt of the borough, the amount of the assessed valuation of the borough, the assets of the borough with the character and value thereof, the date of the last maturity of the respective forms of funded debt, and the assets in each sinking fund. Such publication shall be deemed compliance with the provisions of the Municipal Borrowing Law, which requires the corporate authorities of boroughs to publish an annual statement of indebtedness.*

Section 1038. Appeals from Audit.—It shall be lawful for the borough, or any taxpayer thereof, on its behalf, or any officer whose account is settled or audited, to appeal from the settlement or audit, *as shown in the auditor's report*, to the court of common pleas of the county, but not later than forty days from the [completion] *date of filing* of the [audit as shown by the posted handbills or the statement filed] *auditor's report* with the clerk of the court of quarter sessions.

Section 1039. Taxpayers Appealing to Enter Bond.—No appeal by a taxpayer or officer shall be allowed, unless, at the time of taking such appeal, the appellant

* "receipt," in original.

shall enter into bond in the sum of five hundred dollars with sufficient surety, to prosecute the same with effect and to pay all costs accruing thereon, in case, if the appellant [be] *is a taxpayer*, he shall fail to obtain a final decision more favorable to the borough than that awarded by the auditors, or, in case the appellant [be] *is an accounting officer*, he shall fail to obtain a final decision more favorable to the officer than that awarded by the auditors. Unless such bond is filed as hereinbefore provided, the court of common pleas, upon application, shall set aside the appeal.

Section 1040. Taxpayers May Intervene in Appeals.—Whenever an appeal has been taken from the report of the auditors by the borough, or by any person charged in such report with any sum of money, any taxpayer of the borough may intervene in such appeal, and either prosecute the same on its behalf, or defend it against the appeal of the person so charged. No taxpayer shall intervene, unless he shall file in the court of common pleas a bond, *in the sum of five hundred dollars*, with one of more sufficient sureties, conditioned to indemnify the borough against all costs accruing by reason of such intervention.

Section 1041. Procedure on Appeals.—Any person interested may order the appeal upon the argument list, and evidence may be taken before any person authorized to administer oaths, upon rule for that purpose served upon the opposite party. In any proceeding upon an appeal from a report of auditors [of any borough], the accounts of the officer or officers in question may be investigated *de novo*, and the burden shall be upon each officer, whose accounts are involved in the appeal, of establishing [by evidence from original sources] his right to credits claimed by him, but the opposing party in such appeal may use any facts, figures, or findings of the report of audit as *prima facie* evidence against any officer.

When more than one appeal from a report of such auditors shall have been taken, whether by the borough or an officer or officers thereof, or by a taxpayer, or any or all of them, the court shall, *on its own motion*, or upon [petition] *motion* of any party interested, direct the several appeals to be disposed of in a single proceeding.

Section 1042. Framed Issues.—Whenever any matter of fact is in dispute, the court of common pleas is authorized to frame an issue for the trial thereof.

Section 1043. Findings of Fact and Law; Judgment.—After hearing, the court shall file its findings of fact and law and enter judgment in accordance therewith, and the judgment so entered may be enforced, by any appropriate proceedings, by the party prevailing.

Section 1044. Exceptions and Appeals.—Any person interested may except to the ruling of the court, and may appeal therefrom to the Superior or Supreme Court as in other cases.

Section 1045. Balances Due to be Entered as Judgments.—Any balance, in any report of the auditors, against any officer of the borough, shall constitute a surcharge against such officer, as fully as if expressly stated in said report to be a surcharge, and the amount of any balance, and of any express surcharge, shall, *if no appeal is taken, or after an appeal has been finally determined*, be entered by the prothonotary as a judgment, against such officer and in favor of the borough. The clerk of the court of quarter sessions shall certify the amount of every balance or surcharge, contained in any such report, *from which no appeal has been taken within time herein provided*, to the court of common pleas, for entry thereof by the prothonotary as a judgment. Any taxpayer of the borough may enforce the collection thereof, for the benefit of the borough, by action or execution, upon filing in the court of common pleas a bond, *in the sum of five hundred dollars* with one or more sureties, conditioned to indemnify the borough from all costs which may accrue in the proceedings undertaken by such taxpayer, subject, however, to all rights of appeal from the report of auditors granted by this act. If any person or persons have been, or shall be, surcharged for an illegal purchase, and no fraud or collusion is shown, and the surcharge is paid to the borough, then the article purchased shall become the property of the person or persons surcharged.

Section 1046. Attorney to Auditors.—The borough auditors may employ an attorney whenever the same is deemed advisable by a majority of the auditors.

The compensation of such attorney shall be fixed by the auditors, and shall not exceed the sum payable to one auditor for the making of the annual audit, unless a larger compensation shall be specially allowed by a court [of record] in connection with any proceeding before such court, and shall be payable by the borough out of the general fund of the borough.

Section 1047. Compensation of Auditors.—Each auditor shall receive five dollars per day for each day necessarily employed in the discharge of his duties, to be paid by the borough. A day shall consist of not less than five hours in the aggregate.

Section 1048. Penalty for Failure to Comply with Law.—In case of any neglect or refusal to comply with the provisions of the preceding sections of this article,

the auditors so neglecting or refusing shall [pay a penalty of one hundred dollars, to be recovered in the same manner as debts of like amount are recoverable, by suit instituted in the name of the borough upon the complaint of any taxpayer thereof. When so recovered the amount of the penalty shall be paid into the treasury of the borough.] *upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than one hundred dollars, and in default of the payment of the fine and costs, shall be imprisoned for not more than ten days.*

Section 1049. Auditors May Compel Attendance of Witnesses.—The auditors of each borough, or a majority of them, shall have power to issue subpoenas to obtain the attendance of the officers whose accounts they are required to adjust, their executors, and administrators, and of any persons whom it may be necessary to examine *as witnesses, and to compel their attendance. [by attachment, in like manner and to the same extent as any court of common pleas of this State may or can do in cases depending before them; and also to compel in like manner the production of all books, vouchers, and papers, relative to such accounts. Such subpoena may be served by any person, and such attachment shall be served and executed by the sheriff or coroner of the respective county or any constable of such county.] *If any person shall refuse or neglect to appear or testify, the auditors shall petition the court of common pleas of the county to issue a subpoena to such person and to require him to appear and to testify before the court. The court shall issue such subpoena if it deems the testimony relevant to the issue.*

Section 1050. Auditors May Administer Oaths; Penalty.—The auditors of each borough, or a majority of them, shall have power to administer oaths and affirmations to all persons brought or appearing before them, whether accountants, witnesses, or otherwise; and all persons guilty of swearing or affirming falsely on such examination shall be liable to the pains and penalties of perjury.

Section 1051. Persons Refusing to Testify to Be Committed.—If any person, appearing before such auditors for examination, shall refuse to take such oath or affirmation, or, after having been sworn or affirmed, shall refuse to make answer to such questions as shall ***be put to him by the auditors touching the accounts ***or the official conduct of such public officers or any of them, [such person so refusing may be committed, by a majority of the auditors, to the county jail, by warrant under their hands and seals directed to the sheriff or

* "at," in original.

** "be," omitted in original.

*** "of," in original.

any constable of the county, setting forth particularly the cause of such commitment, until he shall submit to be sworn or affirmed or to make answers to such questions or be otherwise legally discharged] *then the auditors may petition the court to issue its subpoena as hereinbefore provided.*

Section 1052. Pay of Witnesses.—Witnesses, other than officers of the borough, attending before the auditors, and persons or officers serving subpoenas, [attachments, or warrants] shall be paid, out of the borough treasury upon orders signed by a majority of the auditors and drawn on the borough treasury, the same fees as are payable for rendering similar services in civil proceedings before a justice of the peace, and the amount thereof shall be made a part of the charge against any officer who shall be charged by the auditors with any balance: Provided, That any such costs shall have been incurred in establishing said balance. [and, upon] *Upon collection [thereof] of any such costs from any officer, they shall be repaid into the borough treasury.*

Section 1053. Auditors to Settle Accounts Where Witnesses Do Not Appear.—If any person in possession of books, vouchers, or papers, relative to public accounts before auditors, shall refuse to produce the same, or, if any officer whose accounts are to be settled and adjusted by such auditors shall refuse to attend or submit to examination as is hereinbefore directed, the auditors or a majority of them [shall] *may* proceed, by the examination of witnesses and other evidence, to ascertain and settle as near as may be, the amount of public money received by such officer and its application to public purposes or otherwise.

Subdivision (e) of Article X and sections 1055 to 1064, act of May 4, 1927 (P. L. 519, reenacted, revised and amended.

Section 30. Subdivision (e) of Article X and sections 1055 to 1064 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

[(e)] (d) Controller

Section 1055. Oath and Bond of Controller.—The borough controller shall, before entering upon the duties of his office, take and subscribe [the oath prescribed by section one, article seven, of the Constitution of this Commonwealth,] *an oath or affirmation to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform the duties of his office with fidelity.* [and] *He* shall give bond to the borough, with two or more sureties or with a surety company to be approved by the council, in such sum as [they] *it* may by ordinance direct, conditioned for the faithful discharge of his duties. The amount of said bond shall be sufficient to adequately protect the bor-

ough from any illegal or unfaithful action by the controller. The cost of such bond shall be paid by the borough.

[The borough controller may, at the instance of a taxpayer and by rule upon him for that purpose, be compelled to justify his bond, as to the amount thereof and the responsibility of the sureties, before the court of common pleas.]

Section 1056. Salary of Controller.—[In boroughs having a population of twenty thousand inhabitants or more, the salary of the controller shall be one thousand five hundred dollars. In boroughs having a population of fifteen thousand or more, but less than twenty thousand inhabitants, the salary of the controller shall be twelve hundred dollars. In boroughs having a population of ten thousand or more, but less than fifteen thousand inhabitants, the salary of the controller shall be one thousand dollars. In boroughs having a population of less than ten thousand, and not less than five thousand, the salary of the controller shall not exceed seven hundred and fifty dollars. In boroughs having a population of less than five thousand, and not less than two thousand five hundred, the salary of the controller shall not exceed five hundred dollars. In boroughs having a population of less than two thousand five hundred, the salary of the controller shall not exceed three hundred dollars.] *The borough council shall fix the annual salary of the controller, which shall be not less than one hundred dollars or more than one hundred and fifty dollars for each one thousand inhabitants in the borough, to be determined by the last preceding decennial census of the United States, or by two and one-half times the number of registered electors in the borough, as shown by the last registration thereof, whichever may be the greater. The salary of the controller may be changed from time to time, but not oftener than once in two years, but the salary of the controller shall not exceed six thousand dollars at any time.*

Section 1057. General Powers and Duties of Controller.—The borough controller shall superintend the fiscal concerns of the borough. He shall examine, audit, and settle all accounts whatsoever in which the borough is concerned either as debtor or creditor, where provisions for the settlement thereof is made by law; and, where no such provisions or an insufficient provision has been made, he shall examine such accounts and report to the borough council the facts relating thereto with his opinion thereon.

In the examination, audit and settlement of accounts, the controller shall have all of the powers and perform all of the duties vested in and imposed on the auditors

by this act. He shall make and file an annual report of his audit, and make and publish the annual financial report in the same form and manner and at the same time as in this act required of the auditors or the secretary of the borough.

[The controller, in addition to the above audits, shall annually audit, settle, and adjust the accounts, for the immediately preceding fiscal year, in which the borough is concerned, and for any preceding fiscal year of any officer which have not previously been audited, settled, and adjusted. He shall finish said audit, settlement, and adjustment and file, in the office of the prothonotary of the county in which such borough may be situated, a report thereof, within sixty days after the beginning of the current fiscal year, setting forth an itemized statement of the charges against and credits of said officers and any balance or surcharge against them. The amount of any balance or shortage, or of any expenditure of a kind, or made in a manner, prohibited or not authorized by statute, or which causes a financial loss to the borough, shall be a surcharge against any officer against whom such balance or shortage shall appear, or who by vote, act, or neglect, has made, approved, or permitted such expenditure. Any balance or surcharge against any such officer shall be entered by the prothonotary as a judgment against him, unless he shall appeal from such report as hereinafter provided.]

The borough [comptroller] *controller* shall have supervision and control of the accounts of all departments, bureaus, and officers of the borough, authorized to collect, receive, or disburse the public moneys, or who are charged with the management or custody thereof. He shall audit their respective accounts, and may at any time require from any of them a statement in writing of any moneys or property of the borough in their hands, or under their control, showing the amount of cash on hand and the amount deposited in banks *and* banking institutions [and trust companies] together with the names of such institutions. He shall have power to examine every such account of a borough officer in any bank *or* banking institution [or trust company] to verify the accuracy of the statement of such borough department, bureau or officer, and it shall be the duty of every such bank *and* banking institution [or trust company], its officers and agents, to furnish full information to the controller in relation to such account. No banker *or* banking institution [or trust company], its officers or agents, shall be subject to prosecution under other laws of this Commonwealth for disclosing any such information with respect to any such account. He shall, immediately upon the discovery of any default, irregularity,

or delinquency, report the same to the borough council. He shall also audit and report upon the account of any such officer upon the death, resignation, removal, or expiration of the term, of the said officer.

Section 1058. Controller May Require Attendance of Witnesses; Penalty.—In the making of any audit or settlement, and in the authentication of any account or claim or demand against the borough, the controller [of any borough] shall have the same power and authority to obtain the attendance before him of parties and witnesses, and the production of books and papers, and to administer oaths and affirmations, as are given by law to [county and township] *the borough* auditors. All persons guilty of swearing or affirming falsely before him, shall be liable to the penalty for perjury.

Section 1059. Controller to Countersign Warrants.—The borough controller shall countersign all warrants upon the borough treasurer, the form thereof to be prescribed by council, but no warrant shall be countersigned unless there is money in the treasury to pay the same. Whenever a warrant on the treasurer shall be presented to the controller to be countersigned, the person presenting the same shall, if the controller require, produce evidence:

1. That the amount expressed in the warrant is due to the person in whose favor it is drawn.
2. That the supplies or service, for payment of which the warrant is drawn, have been furnished or performed according to law and the terms of the contract.

Section 1060. Controller to Prevent Appropriation Over Drafts.—The borough controller shall not permit any appropriation made by the council to be overdrawn. Whenever an appropriation is exhausted, the object of which is not complete, he shall immediately report the fact to the council, and accompany such report with a statement of the moneys which have been drawn on such appropriation and the particular purpose for which they are drawn.

Section 1061. Amount of Contracts to be Charged Against Appropriations.—Every contract involving appropriation of money shall designate the item of appropriation on which it is founded, and the estimated amount of the expenditure thereunder shall be charged against such item, and so certified by the borough controller on the contract, before it shall take effect as a contract, and the payment required by such contract shall be made from the fund appropriated therefor. If the controller shall certify any contract in excess of the appropriation made therefor, the borough shall not be liable for such excess, but the controller and his sureties

shall be liable for the same, which may be recovered in an action at law by the contracting party aggrieved. It shall be the duty of the controller to certify contracts for the payment of which sufficient appropriations have been made.

Section 1062. *Controller's Reports on Borough Finances* [*Report of Financial Condition to be Made to Department of Internal Affairs].—The borough controller shall, as often as he may deem expedient or the council shall direct, suggest plans to the council for the management and improvement of the borough finances. [and he shall make a report, verified by oath or affirmation, to the council at the first stated meeting in January in each year, of the public accounts of the borough and of the trusts in its care, exhibiting all the expenditures thereof, respectively, the sources from which the revenue and funds are derived and the manner in which the same have been disbursed. Each account shall be accompanied by a detailed statement of the several appropriations made by councils, the amount drawn on each appropriation, and the balance standing to the debit or credit of such appropriation. The report shall be published, at the expense of the borough, once a week for two weeks in a newspaper circulating generally in the borough.

The controller shall also annually, within ninety (90) days after the close of the fiscal year, make a report to the Department of Internal Affairs of the financial condition of the borough, in manner and form required to be made by borough secretaries, as hereinbefore provided, and subject to the same penalties for refusing or neglecting to file such report.]

Section 1063. *Books to Be Kept by **Controller*.—The borough controller shall keep a regular set of books, in which shall be opened and kept as many accounts, under appropriate titles, as may be necessary to show separately and distinctly all the estates and property, whatsoever, real and personal, vested in the borough, all trusts in the care of the same, all debts due and owing the borough, all receipts and expenditures of the various departments of the borough government, and all appropriations made by council and the sums under the same, respectively.

Section 1064. *Appeals from Controller's Report [Bond]*.—[It shall be lawful for the borough, or any taxpayer thereof on its behalf, or any officer against whom any sum shall be charged in the report of audit as filed in the office of the prothonotary, to appeal therefrom to the court of common pleas, within thirty days after the same shall be filed in the prothonotary's office. The appeal shall be filed to the same number and term in which

* "Reports," in original.

** "Controllers," in original.

the report has been filed. If the appellant is a taxpayer, or any officer charged as aforesaid, he shall file a bond, with one or more sufficient sureties, conditioned to pay all costs thereafter accruing in case a decision more favorable to the party on whose behalf the appeal shall be taken than that contained in the report of audit shall not be obtained.]

Appeals may be taken from the settlement and audit of the controller as shown in the controller's report to the court of common pleas of the county, by the same persons, in the same manner, within the same time, subject to the same conditions and procedure, and with like effect in every respect, as in this act provided in the cases of appeals from the settlement and audit of the auditors as shown in their report.

• Section 31. Sections 1065, 1066, 1067, 1068 and 1069 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 32. *Section 1070, subdivision (f) **of Article X and section 1075, and subdivision (g) ***of Article X and section 1080 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Section 1070. Acceptance of Article by Ordinance.—The foregoing provisions of subdivision [(e)] (d) of this article shall not become operative or effective in any borough not having a controller, until the council shall, by ordinance, accept the provisions of subdivision [(e)] (d) of this article. When any borough accepts the provisions of subdivision [(e)] (d) of this article, the court of quarter sessions, upon petition of council, shall appoint a controller to hold office until the first Monday of January, next succeeding the next municipal election at which a controller may be elected under the provisions of this act.

In all boroughs accepting the provisions of subdivision [(e)] (d) of this article, the borough auditors then in office shall continue to hold their office until the first day of January succeeding the election of a borough controller, after which date the office of borough auditor is abolished.

A borough may discontinue the office of controller and reestablish the office of auditors by repealing the ordinance under which the office of controller was created. In any such case, the controller in office at the time of such repeal shall continue in such office until the end of [such] his term.

Sections 1065, 1066, 1067, 1068 and 1069, act of May 4, 1927 P. L. 519, repealed.

Section 1070, subdivision (f) of Article X and section 1075 and subdivision (g) of Article X and section 1080, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

* "Sections," in original.

** "of Article X and," omitted in original.

*** "of Article X," omitted in original.

[(f)] (e) Assessors

Section 1075. Powers of Assessors.—The assessors shall have all the powers, perform all the duties, be subject to all the obligations, and receive the same compensation as is now provided by law relative to the assessment of property and persons for county, borough, school, and [poor] *institution district* purposes.

[(g)] (f) Tax Collector

Section 1080. Powers and Duties of Tax Collector.—The tax collector shall be the collector of all State, county, borough, school, [poor] *institution district* and other taxes, levied within the borough by the authorities empowered to levy taxes. He shall, in addition to the powers, authority, duties, and responsibilities provided for by this act, have all the powers, perform all the duties, and be subject to all the obligations and responsibilities, for the collection of such taxes, as are now vested in, conferred upon, or imposed upon tax collectors [for county purposes] *by law*.

Section 1081, act of May 4, 1927 P. L. 519, repealed.

Section 33. Section 1081 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same is hereby repealed.

Sections 1101 to 1115, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 34. Sections 1101 to 1115 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XI

POWERS, [AND] DUTIES AND RIGHTS OF APPOINTED OFFICERS AND EMPLOYES

(a) General Provisions

Section 1101. Compensation.—Appointed officers *and employes* of the borough shall receive such compensation for their services as the council shall prescribe.

Section 1102. Accounts.—All officers *and employes* appointed by the borough council shall, whenever directed, render their accounts to the council for settlement.

Section 1103. Bonds.—Whenever an *appointed officer or employe* [or official] of any borough, [whether chosen by vote of the electors or by council,] is required to give bond, [endorsed by a surety company] for the faithful performance of his duties, the borough may pay the premium thereon.

Section 1104. Appointments; *Incompatible Offices*.—Unless there [be] *is* incompatibility in fact, any elective or appointive officer of the borough shall be eligible to serve on any board, commission, bureau or other agency created by or for the borough, *or any borough

* "of," in original.

office created or authorized by statute and may accept appointments thereunder [provided], *but* no burgess or councilman shall receive compensation therefor. Where there is no incompatibility in fact, and subject to the foregoing provisions as to compensation appointees of council, or appointments made by the burgess with the approval of council, or by the corporate authorities, [or by the corporate officers] may hold two or more appointive borough offices, but no burgess or member of council may serve as *borough manager* or as secretary or treasurer, and the offices of secretary and treasurer shall not be held by the same person [: Provided, That nothing]. *Nothing* herein contained shall affect the eligibility of any borough official to hold any other public office or receive compensation therefor. In all cases in which it is provided that an appointment is to be made by the burgess and council, such appointment shall hereafter be made by the burgess with the approval of a majority of the members of council attending *the meeting at which the appointment is made, unless a different vote is required by statute. [and all] *All* appointments to be made by the council or the corporate [officers or corporate] authorities shall be made by a majority of the members of council attending *the meeting at which the appointment is made, unless a different vote is required by statute.

Section 1104.1. *Compensation to Aged Employes.*—By ordinance a borough may provide for compensation to appointees and employes of not less than ten [(10)] years of satisfactory service, and who are not less than sixty [(60)] years of age, a proportion of the compensation last paid to them but not in excess of fifty per centum (50%) thereof, as fixed in said ordinance or amendment thereto [: Provided, That the]. *The* expenditures herein authorized shall be paid out of the general tax levy for the current expenditures of the year, and not by any special tax therefor [: Provided further, That nothing]. *Nothing* herein shall preclude any appointee or employe of the borough from joining in any pension system or municipal retirement system that the borough may adopt. The true intent and purpose hereof is to permit boroughs, without exceeding the present general tax limitation, to pay to servants in their employ *who are* too old to advantageously join any pensioning or retirement system, a reasonable annuity in lieu of *joining* a pensioning or retirement system, and who are not and cannot now be socially protected by any Federal security system now applicable to persons not employed by municipalities.

* "a," in original.

(b) Treasurer

Section 1105. Bond and Duties.—The borough treasurer shall, before entering upon the duties of his office, give bond, with surety as required by the borough council, [and] conditioned for the faithful performance of his duties. [he shall perform the duties of the township treasurer within the borough, except as may be otherwise provided in this act.] *He* shall keep a just account of all receipts and disbursements, and shall annually submit his account to the borough auditors or controller; he shall pay over all moneys remaining in his hands and deliver all books, papers, accounts, and other things belonging to the borough, to his successor. All moneys received by any officer, or other person, for the use of the borough shall be forthwith paid to the borough treasurer. He shall deposit all moneys received by him in a bank or *banking institution* [or trust company] in the name of the borough. All expenditures shall be paid out of funds in the treasury only when authorized by the treasurer, upon an order signed by the president of council and the borough secretary and also by the borough controller, if any. Such order shall not be executed unless there is money in the treasury available therefor.

Section 1106. Compensation.—The borough treasurer shall receive such compensation as the council shall prescribe, not exceeding however two per centum of the amount of funds paid out by him upon borough orders or warrants [: Provided, That], *but* no compensation or commission shall be allowed to any borough treasurer on account of any balance in his hands paid over to his successor, or on account of the repayment of any loan or redemption of bonds, or on account of any transfer from or to the sinking or other fund, [or to or from any other fund] whether upon order or warrant or otherwise.

(c) Secretary

Section 1110. Duties.—The secretary shall attend all meetings of the borough council and shall keep full minutes of [their] *its* proceedings; he shall transcribe the by-laws, rules, regulations, and ordinances adopted into a book kept for *that purpose; he shall preserve the records and documents of the borough, and shall have custody of the corporate seal. He shall certify copies of any book, paper, record, by-law, rule, regulation, [ordinances] *resolution, ordinance* or proceeding of the borough, under the seal thereof, which copies, *when* so certified, shall be [admitted] *admissible* in evidence in any court of the Commonwealth. He shall attest the execution of all instruments, record the publication of all

* "the," in original.

[enactments] *ordinances* and attest the same by his signature. He shall file of record [the] proof of service of all notices required by law, and [the] *his* certificate thereof shall be good evidence of such notice. He shall purchase, [to be paid by] *at the expense of* the borough, such dockets, books, forms, and files, not to exceed twenty-five dollars in any one year, as he may deem suitable to his office, to be and remain the property of the borough. He shall deliver to his successor the seal and all books, papers, and other *records and* things belonging to the borough.

Section 1111. Records Open to Inspection.—The *fiscal records and documents and the* minute book and other records and documents of every borough shall be open to the inspection of any taxpayer thereof, his, her, or its agent, upon demand therefor.

(d) Street Commissioner

Section 1115. Appointment.—On the first Monday of January, or within thirty days thereafter, of each [even-number] *even-numbered* year, the borough council may appoint one person as street commissioner, who shall serve for a term of two years, or until his successor shall qualify.

Section 35. Section 1116 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same is hereby repealed.

Section 1116, act of May 4, 1927 P. L. 519, repealed.

Section 36. Sections 1120 to 1129 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 1120 to 1129, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

(e) Solicitor

Section 1120. Election; Vacancies. — The borough council, on the first Monday of January in any even-numbered year, or as soon thereafter as practicable, may elect, [by a vote of a majority of the members,] one person learned in the law, who shall be styled the borough solicitor, and who shall serve for the term of four years from the first Monday of January of the even-numbered year in or succeeding which he was elected, and until his successor qualifies. Vacancies in the office of borough solicitor shall be filled by the council for the unexpired term.

Section 1121. Bond.—The borough solicitor shall, *if council so requires*, give a bond to the borough, with two or more sureties, or one [trust or] bonding company, to be approved by the council, in such sum as it shall [by ordinance] direct, conditioned for the faithful performance of his duty.

Section 1122. Solicitor to Have Control of Law Matters.—The law matters of the borough shall be under the superintendence, discretion, and control of the borough solicitor, and no department or officer of the borough, except as herein otherwise provided, shall employ an additional counsel without the assent or ratification of the council.

Section 1123. Duties of Solicitor.—The borough solicitor, *when directed or requested so to do by council or the burgess*, shall prepare or approve such bonds, obligations, contracts, leases, conveyances, ordinances and assurances to which the borough or any department thereof may be a party [as may be directed by ordinance or resolution]; he shall commence and prosecute all actions brought by the borough for or on account of any of the estates, rights, trusts, privileges, claims, or demands, as well as defend all actions or suits against the borough, or any officer thereof, wherein or whereby any of the estates, rights, privileges, trusts, ordinances, or accounts, of the borough, or any department thereof, may be brought in question before any court *in the Commonwealth; and shall do every professional act incident to the office which he may be authorized or required to do by the council or the burgess [or by **any ordinance or resolution]. He shall, whenever required, furnish the council, the committees thereof, the burgess, or the heads of departments, with his opinion in writing upon any question of law which may be submitted by any of them in their official capacities.

(f) Police

Section 1125. Appointment, Suspension, Reduction, Discharge Powers; Burgess to Have Control.—Borough councils may, *subject to the civil service provisions of this act, if they be in effect at the time*, appoint and remove, or suspend, or reduce in rank, one or more suitable persons, citizens of this Commonwealth, as borough policemen, who shall [have the power to arrest persons] *be ex-officio constables of the borough and shall and may, without warrant and upon view, arrest and commit for hearing any and all persons guilty of breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or for violating any ordinance of the borough for the violation of which [may subject persons to arrest.] a fine or penalty is imposed, and not withstanding any statute pertaining to the same or similar offenses.* Any person so arrested shall be received for confinement by the keepers of the jails, lockups, or station houses within the county.

* "of." in original.

** "any," omitted in original.

The borough council may designate one of said policemen as chief of police. The burgess of the borough shall have full charge and control of the chief of police and the police force, and he shall direct the time during which, the place where, and the manner in which, the chief of police and the police force shall perform [its] *their* duties.

Policemen shall have authority to serve and execute all criminal process for the violation of borough ordinances which may be issued by the burgess, and shall charge the same fees and costs as constables of the borough, but such fees and costs shall be collected by the burgess and by him paid into the borough treasury.

The borough may by ordinance establish a police department consisting of chief, captain, lieutenant, sergeants, [and] or any other classification desired by the council, and council may, *subject to the civil service provisions of this act, if they be in effect at the time*, designate the individuals assigned to each office, but the burgess shall continue to direct the manner in which the persons assigned to the office shall perform their duties. The burgess may, however, delegate to the chief of police or other officers supervision over and instruction to subordinate officers in the manner of performing their duties. [By motion, council may fix an hourly or daily wage to be paid to special policemen, whose appointment is hereby authorized, to be selected by the] *The burgess may appoint special policemen during an emergency in which the safety and welfare of the borough and the public is endangered.*

The borough council may assign the chief of police or any member of the police force to undergo a course of training at any training school for policemen established and made available by the State or Federal Government, and may provide for the payment by the borough of his expenses while in attendance in such school.

Section 1126. Police Badge.—The borough policeman shall, when on duty, wear a shield or badge with the [words "borough police" and the name of the borough for which they are appointed inscribed thereon.] *word "POLICE."*

Section 1127. Suspension By Burgess.—The burgess may, for cause and without pay, suspend any policeman until the succeeding regular meeting of the council, at which time *or thereafter* the council may, *subject to the civil service provisions of this act, if they be in effect at the time, suspend, discharge, reduce in rank or reinstate such policeman.*

Section 1128. Compensation.—The borough police *and special policemen appointed by the burgess shall re-*

ceive compensation to be fixed in the same manner as the compensation of other appointed borough officers is fixed.

Section 1129. Office of Police and Constable Not Incompatible.—Borough policemen residing in the borough may at the same time hold and exercise the office of constable in the borough or any ward thereof, and may demand and receive all costs, fees, and emoluments pertaining to such office.

Section 1130, act of May 4, 1927 P. L. 519, repealed.

Section 37. Section 1130 of said act of May *4, 1927 (Pamphlet Laws **519) be and the same is hereby repealed.

Sections 1131 to 1162, act of May 4, 1927 P. L. 519, reenacted, revised and amended and section 1137 added.

Section 38. Section 1131 to 1162 inclusive of said act are hereby reenacted, revised and amended and section 1137 is added to read as follows:

Section 1131. Police Pension Fund.—[Boroughs may] *Where a police force is being maintained, the borough may* by ordinance, establish a police pension fund, [to be maintained by] *into which each member of the police force shall pay* an equal and proportionate monthly charge [against each member of the police force,] not exceeding annually three per centum of the pay of such member. The fund shall be under the direction of the borough council, or such committee as it may designate, and shall be applied under such regulations as the council may by ordinance prescribe for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age or disability and the families of such as may be injured or killed in the service. Any allowances made to those who are retired by reason of disability or age shall be in conformity with a uniform scale.

Section 1132. Service Required Before Retirement.—The ordinance establishing the police pension fund may prescribe a minimum period of continuous service, not less than twenty years, after which members of the force may be retired from active duty. Borough policemen so retired shall be subject to service as police ***reserve, until unfitted for such service by reason of age or disability, when they may be finally discharged.

Section 1133. Pension Allowance.—The basis of the apportionment of the pension shall be determined by the rate of monthly pay of the member at the date of death, honorable discharge, or retirement, and shall not in any case exceed in any year one-half the annual pay of such member computed at such monthly rate.

Section 1134. Pensions Not to Be Charged on Other Funds.—Payments made on account of police pensions shall be a charge on no fund in the treasury of the

* "21, 1937," in original.

** "761," in original.

*** "reserves," in original.

borough, or under its control, other than the police pension fund.

Section 1135. Gifts to Pension Fund.—Boroughs may take, by gift, grant, devise, or bequest, any money or property real, personal, or mixed, in trust for the benefit of such police pension fund. The care, management, investment, and disposal of such trust funds or property shall be vested in such officers as the borough shall by ordinance direct, and shall be governed by such officers, subject to any directions not inconsistent therewith as the donors of such funds and property may prescribe.

Section 1136. Rights of Members.—No person participating in such police pension fund and becoming entitled to receive a benefit therefrom, shall be deprived of his right to an equal and proportionate share therein, upon the basis upon which he first became entitled thereto, except for the following causes, that is to say: conviction of a crime or misdemeanor; becoming *a habitual drunkard; becoming a non-resident of the Commonwealth; or failing to comply with some general regulation relating to the management of such fund, which may be made by ordinance, and which provides that a failure to comply therewith shall terminate the right to participate in the pension fund after such notice and hearing as it shall prescribe.

Section 1137. *Annuity Contracts in Lieu of Establishing a Police Pension Fund.*—Boroughs may provide annuity contracts for the purpose of paying pensions or annuities to the members of the police force who receive honorable discharge therefrom by reason of age or disability and the families of such as may be injured or killed in service.

(g) Borough Manager

Section 1140. Borough Manager May Be Created by Ordinance; Election.—The council of any borough may, at its discretion, at any time, create by ordinance the office of borough manager and may in like manner abolish the same. While said office exists, the council shall, from time to time, and whenever there is a vacancy, elect, by a vote of a majority of *all* the members, one person to fill said office, who shall serve until the first Monday of January of the even-numbered year succeeding his election and until his successor qualified, subject however to removal by the council at any time by a vote of the majority of *all* the members.

Section 1141. Powers and Duties; Bond.—The powers, duties, and compensation of the borough manager shall be regulated by ordinance. The council and

* "an," in original.

the burgess, when authorized by ordinance, [the burgess] may delegate, subject to recall, any of their respective non-legislative and non-judicial powers and duties to the borough manager. He shall give a bond to the borough, with one or more sureties or one [trust or] bonding company, to be approved by the council, in such sum as it shall by ordinance direct, conditioned for the faithful performance of his duties.

Section 1142. Other Offices Not Incompatible.—The offices of borough manager, street commissioner, secretary, treasurer, and chief of police, shall not be deemed incompatible, and any two or more or all of the said offices may be held by one person, except the offices of secretary and treasurer shall not be held by the same person. Neither the burgess nor any member of the borough council shall be eligible to hold the office of borough manager.

(h) Borough Planning Commission

Section 1145. Creation of Borough Planning Department; Appointment of Commissioners; *Powers; No Compensation.—The council of any borough may at any time create by ordinance a department to be known as the Department of Borough Planning, which shall be in charge of a Borough Planning Commission consisting of five persons to be appointed by [the burgess and councils] *council*. In the first instance one member of said commission shall be appointed for one year, one member for two years, one member for three years, one member for four years, and one member for five years, and, annually thereafter, a member of said commission shall be appointed for a term of five years. An appointment to fill a [casual] vacancy shall be only for the unexpired portion of the term. All members of the said commission shall reside within the zone of jurisdiction of said commission as hereinafter defined. They may make and alter rules and regulations for their own organization and procedure, consistent with the ordinances of the borough and the laws of the Commonwealth. They shall serve without compensation, and make annually to the [burgess and councils] *council* a report of their transactions. They may employ engineers and other persons, whose salaries and wages, and other necessary expenses of the commission, *where approved by council*, shall be provided for through proper appropriation by [councils] *council*. *They may contract for professional planning services, the costs and expenses of which, when approved by council, shall be provided for through proper appropriation by council.*

Section 1146. Commission to Receive Copies of Ordinances; Action Thereon.—The secretary of council

* "Power," in original.

shall, upon introduction, furnish to the Borough Planning Commission for its consideration a copy of all *proposed* ordinances [and bills] and all amendments thereto, relating to the location of any public building of the borough, and to the location, extension, widening, narrowing, enlargement, ornamentation, and parking of any street, boulevard, parkway, park, playground, or other public ground, and to the relocation, vacation, curtailment, changes of use, or any other alteration of the borough plan with relation to any of the same, and to the location of any bridge, tunnel, and subway, or any surface, underground, or elevated railway. The said commission shall have the power to disapprove any of the said ordinances, bills or amendments, which disapproval, however, must be communicated to [councils] *council* in writing within ten days from the introduction of said ordinances, but such disapproval shall not operate as a veto.

Section 1147. Maps; Recommendations.—The Borough Planning Commission may make, or cause to be made, and lay before [councils] *council*, and, at its discretion [and] cause to be published, maps of the borough or any portion thereof, including territory extending three miles beyond the borough limits, showing the streets and highways, and other natural and artificial features, and also locations proposed by it for any new public *buildings, civic centre, street, parkway, park, playground, or any other public ground or public improvement, or any widening, extension, or relocation of the same, or any change in the borough plan by it deemed advisable; and it may make recommendations to [councils] *council*, from time to time, concerning any such matters and things aforesaid, for action by [councils] *council* [thereto] *thereon*, and, in so doing, have regard for the present conditions and future needs and growth of the borough, and the distribution and relative location of all the principal and other streets and railways, waterways and all other means of public travel and business communications, as well as the distribution and relative location of all public buildings, public grounds, and open spaces devoted to public use.

Section 1148. Recommendations to Private Persons, Et Cetera.—The Borough Planning Commission may make recommendations to any public authorities or any corporations or individuals in said boroughs with reference to the location of any buildings, structures, or works to be erected or constructed by them.

Section 1149. Plans of Lots, Et Cetera, to Be Submitted Before Recording; Approval of Sewers, Et

* "building," in original.

Cetera.—All plans, plots, or replots of lands laid out in building lots, and the streets [alleys] or other portions of the same, intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the borough limits, shall be submitted to the Borough Planning Commission, and approved by it, before [it] *they* shall be recorded. And it shall be unlawful to receive or record such plan in any public office, unless the same shall bear thereon, by endorsement or otherwise, the approval of the Borough Planning Commission. The disapproval of any such plan by the Borough Planning Commission shall be deemed a refusal of the proposed dedication shown thereon. The approval of the commission shall be deemed an acceptance of the proposed dedication, but shall not impose any duty upon the borough concerning the maintenance or improvement of any such dedicated parts, until the proper authorities of the borough shall have made actual appropriations of the same by entry, use, or *improvement. No sewer, water, or gas main or pipes, or other improvement, shall be voted or made, within the area under the jurisdiction of said commission, for the use of any such purchasers or owners, nor shall any permit for connection with, or other use of, any such improvement existing, or for any other reason made, be given to any such purchasers or owners, until such plan is so approved.

Section 1150. [Ordinances to Confirm Action; Eligibility of Commissioners] *Exercise of Planning Commission; Functions by Other Agencies*.—It shall be proper for said boroughs to provide by ordinance for the exercise of all rights and powers herein conferred upon the Borough Planning Commission, by a park commission, or kindred municipal bureau or commission, authorized under existing laws. [And no person holding office under the government of any of said boroughs, except the burgess or members of councils shall be ineligible to serve as a member of a Borough Planning Commission.]

(i) Bureau of Mine Inspection and Surface Support

Section 1155. Ordinance Creating.—Boroughs within the limits of the anthracite region of the Commonwealth may, by ordinance, create a bureau of mine inspection and surface support.

Section 1156. Bureau How Constituted.—The bureau shall consist of one practical mining engineer, to be appointed by the burgess with consent of the council, and such assistants, clerks, and employes as the council may provide. The officers and employes of the bureau shall receive such compensation as may be prescribed by council.

* "improvements," in original.

Section 1157. Inspection of Mines.—Members of the bureau may enter, inspect, examine, and survey, any mine or colliery within the limits of the *borough, at all reasonable times, either by day or night, but not so as to impede nor obstruct the workings of the mine or colliery; and may take with them such other persons as may be necessary for the purpose of making an examination or survey. The owner, operator, or superintendent of such mine or colliery, shall furnish the means necessary for such entry, inspection, examination, survey, and exit.

Section 1158. Operators to Furnish Maps; Contents.—The owner, operator, or superintendent, of every coal mine or colliery, within three months after the passage of an ordinance by any borough creating such bureau, shall make or cause to be made and furnish to each such bureau, an accurate map or plan of the workings or excavations of such coal mine or colliery, on a scale of one hundred feet to the inch. The map or plan shall exhibit the workings or excavations in every seam of coal on a separate sheet, and the tunnels and passages connecting with such workings or excavations. It shall show in degrees the general inclination of the strata, with any material deflection therein in the workings or excavations, and shall also show the tidal elevations of the bottom of every shaft, slope, tunnel, and gangway, and of any other point in the mine or on the surface where such elevation shall be deemed necessary by the bureau. The map or plan shall show the number of the last survey station and date of each survey on the gangways or the most advanced workings.

Section 1159. Extensions to Be Placed On Maps.—Every mine owner, operator, or superintendent, shall place or cause to be placed upon the map of the bureau, at least once in every three months, all the extensions made in any mine within the limits of such borough during the three preceding months, except those made within thirty days immediately preceding the time of placing such extensions upon the said map.

Section 1160. Certain Surface Supports Not to Be Removed.—It shall be unlawful for any person, copartnership, association, or corporation to dig, mine, remove, or carry away the coal, rock, earth, or other minerals or materials forming the natural support of the surface beneath the public **highways, streets, alleys, courts, and places of any borough in the anthracite region to such an extent and in such a manner as to thereby remove the necessary support of the surface, without having first placed or constructed an artificial permanent support sufficient to uphold and preserve the stability

* "boroughs," in original.

** "highway," in original.

of the surfaces of such public highways, streets, alleys, courts, and places.

Section 1161. Penalty.—Any person being the general manager, superintendent or person in charge of the work of any corporation, copartnership, or association, violating any of the provisions of this article, shall be guilty of a misdemeanor, and, upon conviction [before a justice of the peace of the borough,] *thereof* shall be sentenced, for such offense, to pay a fine not exceeding one thousand dollars or to undergo imprisonment in the county jail for a period not exceeding ninety days, or both. All fines imposed under this section shall be paid into the treasury of the borough.

Section 1162. Enactment of Ordinances.—Borough councils may enact such ordinances as may be necessary for the enforcement of the provisions of this article.

Act of May 4,
1927 P. L. 519,
revised and
amended, sub-
division (j) and
sections 1165 to
1190 to Article
XI, act of May 4,
1927 P. L. 519,
added.

Section 39. The said act of May 4, 1927 (Pamphlet Laws 519) is hereby revised and amended by adding subdivision (j) and *sections 1165 to 1190 inclusive to Article XI of said act as follows:

(j) *Civil Service for Police and Firemen*

Section 1165. Appointments of Police and Firemen.—This subdivision (j) of this article shall not apply to any borough having a police force of less than three members or to volunteer departments, or companies employing their own operators, or to boroughs having less than three salaried operators of fire apparatus. This subdivision (j) of this article is subject as heretofore to the power of council to determine compensation. Hereafter each and every appointment to and promotion in the police force or as fire apparatus operators paid directly by the borough in every borough shall be made only according to qualifications and fitness, to be ascertained by examinations which shall be competitive as hereinafter provided.

No person shall hereafter be suspended, removed or reduced in rank as a paid employe in any police force or as a paid operator of fire apparatus of any borough, except in accordance with the provisions of this subdivision.

Section 1166. Civil Service Commission Created; Appointments; Vacancies.—There is hereby created in each borough, where a police force or paid fire apparatus operators as hereinbefore provided are being maintained, a civil service commission hereinafter referred to as the commission. The commission shall consist of three commissioners who shall be qualified electors of the borough and shall be appointed by the borough council initially to serve for the terms of two, four and six years,

* "Section," in original.

and as terms thereafter expire shall be appointed for terms of six years.

Any vacancy occurring in any commission for any reason whatsoever shall be filled for the unexpired term within the period of thirty days after such vacancy occurs.

Each member of the *commission created by this subdivision, before entering upon the discharge of the duties of his office, shall take an oath or affirmation to support the Constitution of the United States and of the Commonwealth of Pennsylvania and to perform his official duties with fidelity.

Section 1167. *Offices Incompatible With Civil Service Commissioner.*—No commissioner shall at the same time hold an elective or appointed office under the United States government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth, except that one member of the commission may be a member of the council of the borough.

Section 1168. *Organization of Commission; Quorum.*—The commission first appointed shall organize within ten days of its appointment and shall elect one of its members as the chairman and one as the secretary. The commission shall thereafter meet and organize on the first Monday of each even-numbered year. Each commissioner shall be notified in writing of each and every meeting. Two members of the commission shall constitute a quorum and no action of the commission shall be valid unless it shall have the concurrence of a least two members.

Section 1169. *Clerks and Supplies, Etc.*—The borough shall furnish to the commission, on its requisition, such clerical assistance as may be necessary for the work of the commission. The borough shall provide a suitable and convenient room for the use of the commission. The commission shall order from the borough the necessary stationery, postage, printing or supplies, and the elected and appointed officials of every such borough shall aid the commission in all proper ways in carrying out the provisions of this subdivision relating to civil service.

Section 1170. *Rules and Regulations.*—The commission shall have power to prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this subdivision and shall be governed thereby. Before any such rules and regulations are in force the same shall first be approved by the council of the borough. When such rules and regulations have been so approved, they shall not be annulled, amended,

* "commisison," in original.

or added to, without the approval of the said council. All rules and regulations and modifications thereof shall be printed for public distribution at the expense of the borough.

Section 1171. Minutes and Records.—The commission shall keep minutes of its proceedings and records of examinations and other official actions. All recommendations of applicants for appointment received by the commission shall be kept and preserved for a period of five years, and all such records and all written causes of removal filed with the commission shall be subject to reasonable regulation and open to public inspection.

Section 1172. Investigations.—The commission shall have power to make investigations concerning all matters touching the administration and enforcement of the civil service provisions of this article and rules and regulations adopted thereunder. The chairman of the commission is hereby given power to administer oaths.

Section 1173. Subpoenas.—The commission shall have power to issue subpoenas over the signature of the chairman, to require the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid from appropriations for the incidental expenses of the commission.

All officers in public service and employes shall attend and testify when required to do so by the commission.

If any person shall refuse or neglect to obey any subpoena issued by the commission, he shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine not to exceed one hundred dollars (\$100.00), and in default of the payment of such fine and costs, shall be imprisoned not to exceed thirty days.

If any person shall refuse or neglect to obey any subpoena issued by the commission, it may apply by petition to the court of common pleas of the county for its subpoena, requiring the attendance of such persons before the commission or the court there to testify and to produce any records and papers necessary, and in default thereof, shall be held in contempt of court.

Section 1174. Annual Report.—The commission shall make an annual report to the council containing a brief summary of its work during the year which shall be available for public inspection.

Section 1175. General Provisions Relating to Examinations.—The commission shall make rules and regulations, to be approved as provided in section 1170 hereof, providing for the examination of applicants for posi-

tions in the police force and as paid operators of fire apparatus and for promotions, which rules and regulations shall prescribe the minimum qualifications of all applicants to be examined and the passing grades. All examinations for positions or promotions shall be practical in character and shall relate to such matters and include such inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of the employment sought by them. All examinations shall be open to all applicants who have the minimum qualifications required by the rules and regulations. Each applicant for examination shall be subject to the regulations adopted by the commission, and shall be required to submit to a physical examination before being admitted to the regular examination held by the commission.

Public notice of the time and place of every examination, together with the information as to the kind of position or place to be filled, shall be given by publication once in a newspaper of general circulation in the borough, or in a newspaper circulating generally in the borough, at least two weeks prior to each examination, and a copy of the notice shall be prominently posted in the office of the commission or other public place.

The *commission shall post in its office the eligible list, containing the names and grades of those who have passed the examination. Persons, male or female, who served in the military or naval service of the United States during any war in which the United States has been, is now, or shall hereafter be, engaged and who have honorable discharges from such service, who have successfully passed the examination, shall be given the additional credits and preference in appointment and promotion provided for by law.

Section 1176. *Application for Examination.*—Each person desiring to apply for examination shall file with the commission a formal application in which the applicant shall state under oath or affirmation (a) his full name and residence or post office address, (b) his citizenship, place and date of birth, (c) his condition of health and physical capacity for public service, (d) his business or employment and his residence for the past five years, and (e) such other information as may be required by the commission's rules and regulations, showing the applicant's qualifications for the position for which he is being examined.

Section 1177. *Rejection of Applicant; Hearing.*—The commission may refuse to examine, or, if examined, may refuse to certify after examination as eligible, any

* "commisison," in original.

applicant who is found to lack any of the minimum qualifications for examination prescribed in the rules and regulations adopted for the position or employment for which he has applied, or who is physically disabled and unfit for the performance of the duties of the position to which he seeks employment, or who is addicted to the habitual use of intoxicating liquors or narcotic drugs, or who has been guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office, or who is affiliated with any group whose policies or activities are subversive to the form of government set forth in the constitutions and laws of the United States and Pennsylvania.

If any applicant or person feels himself aggrieved by the action of the commission, in refusing to examine him or to certify him as eligible after examination, the commission shall, at the request of such person, within ten (10) days, appoint a time and place where he may appear personally and by counsel. Whereupon the commission shall then review its refusal to make such examination or certification and take such testimony as may be offered. The decision of the commission shall be final.

Section 1178. Manner of Filling Appointments.— Every position or employment in the police force or as paid operators of fire apparatus, except that of chief of police or chief of the fire department, or equivalent, shall be filled only in the following manner: the council shall notify the commission of any vacancy which is to be filled and shall request the certification of a list of eligibles. The commission shall certify for each existing vacancy from the eligible list, the names of three persons thereon who have received the highest average. The council shall thereupon, with sole reference to the merits and fitness of the candidates, make an appointment from the three names certified, unless they make objections to the commission as to one or more of the persons so certified for any of the reasons stated in section 1177 of this act. Should such objections be sustained by the commission, as provided in said section, the commission shall thereupon strike the name of such person from the eligible list and certify the next highest name for each name stricken off. As each subsequent vacancy occurs in the same or another position precisely the same procedure shall be followed.

In the case of a vacancy in the office of chief of police or chief of the fire department, or equivalent official, the appointive power may nominate a person to the commission. It shall thereupon become the duty of the com-

mission to subject such person to a noncompetitive examination, and if such person shall be certified by the commission as qualified, he may then be appointed to such position, and thereafter shall be subject to all the provisions of this act.

Section 1179. Age, Applicant's Residence.—No person shall be eligible to apply for examination unless he is more than twenty-one years of age at the date of application and has been a resident of the borough for at least one year preceding immediately his application, unless no such resident applicants are available.

Section 1180. Probation Period.—All original appointments to any position in the police force or as paid operators of fire apparatus shall be for a probationary period of six months, but during the probationary period an appointee may be dismissed only for a cause specified in section 1177 of this act. If at the close of a probationary period the conduct or fitness of the probationer has not been satisfactory to the council, the probationer shall be notified in writing that he will not receive a permanent appointment. Thereupon, his appointment shall cease, otherwise his retention shall be equivalent to a permanent appointment.

Section 1181. Provisional Appointments.—Whenever there are urgent reasons for the filling of a vacancy in any position in the police force and there are no names on the eligible list for such appointment, the council may nominate a person to the commission for noncompetitive examination, and if such nominee shall be certified by the commission as qualified after such noncompetitive examination, he may be appointed provisionally to fill such vacancy. It shall thereupon become the duty of the commission within three weeks to hold a competitive examination and certify a list of eligibles and a regular appointment shall then be made from the name or names submitted by the commission: Provided, however, That nothing herein contained shall prevent the appointment, without examination, of persons temporarily as police officers in cases of riot or other emergency or of operators of fire apparatus in emergency cases.

Section 1182. Promotions.—Promotions shall be based on merits to be ascertained by examinations to be prescribed by the commission. All questions relative to promotions shall be practical in character and such as will fairly test the merit and fitness of persons seeking promotion.

The council shall have power to determine in each instance whether an increase in salary shall constitute a promotion.

Section 1183. Physical Examinations.—All applicants for examination shall undergo a physical examination which shall be conducted under the supervision of a doctor of medicine appointed by the commission. No person shall be eligible to take an examination until said doctor certifies that the applicant is free from any bodily or mental defects, deformity or disease that might incapacitate him from the discharge of the duties of the position desired.

Section 1184. Removals.—No person employed in any police or fire force of any borough shall be suspended, removed or reduced in rank except for the following reasons (1) physical or mental disability affecting his ability to continue in service, in which cases the person shall receive an honorable discharge from service, (2) neglect or violation of any official duty, (3) violation of any law of this Commonwealth, which provides that such violation constitutes a misdemeanor or felony, (4) inefficiency, neglect, intemperance, disobedience of orders, or conduct unbecoming an officer, (5) intoxication while on duty, (6) engaging or participating in conducting of any political or election campaign otherwise than to exercise his own right of suffrage. A person so employed shall not be removed for religious, racial or political reasons. A written statement of any charges made against any person so employed shall be furnished to such person within five days after the same are filed.

If for reasons of economy or other reasons it shall be deemed necessary by any borough to reduce the number of paid employes of the police or fire force, then such borough shall apply the following procedure—(a) if there are any employes eligible for retirement under the terms of any retirement or pension law, then such reduction in numbers shall be made by retirement if the party to be retired is sixty-five years of age or over, (b) if the number of paid employes in the police force eligible to retirement is insufficient to effect the necessary reduction in numbers, or if there are no persons eligible for retirement, or if no retirement or pension fund exists, then the reduction shall be effected by furloughing the man or men, including probationers, last appointed to the respective force. Such removal shall be accomplished by furloughing in numerical order commencing with the man last appointed until such reduction shall have been accomplished. In the event the said police force shall again be increased the employes furloughed shall be reinstated in the order of their seniority in the service.

Section 1185. Hearings on Dismissals and Reduction.—If the person suspended, removed or reduced

in rank shall demand a hearing by the commission, the demand shall be made to the commission. Such person may make written answers to any charges filed against him not later than the day fixed for hearing. The commission shall grant him a hearing which shall be held within a period of ten days from the filing of charges in writing, unless continued by the commission for cause at the request of the council or the accused. At any such hearing, the person against whom the charges are made may be present in person and by counsel. The council may suspend any such person, without pay, pending the determination of the charges against him, but in the event the commission fails to uphold the charges, then the person sought to be suspended, removed or demoted shall be reinstated with full pay for the period during which he was suspended, removed or demoted, and no charges shall be officially recorded against his record.

A stenographic record of all testimony taken at such hearings shall be filed with, and preserved by, the commission, which record shall be sealed and not be available for public inspection in the event the charges are dismissed.

In the event the commission shall sustain the charges and order the suspension, removal or reduction in rank, the person suspended, removed or reduced in rank shall have immediate right of appeal to the court of common pleas of the county, and the case shall there be determined as the court deems proper. No order of suspension made by the commission shall be for a longer period than one year. Such appeal shall be taken within sixty days from the date of entry by the commission of its final order and shall be by petition. Upon such appeal being taken and docketed, the court of common pleas shall fix a day for a hearing and shall proceed to hear the appeal on the original record and such additional proof or testimony as the parties concerned may desire to offer in evidence. The decision of the court affirming or revising the decision of the commission shall be final, and the employe shall be suspended, discharged, demoted or reinstated in accordance with the order of the court.

The council and the person sought to be suspended, removed or demoted shall at all times have the right to employ counsel before the commission and upon appeal to the court of common pleas, and shall have the further right of appealing to the Superior or Supreme Court in the manner provided by law.

Section 1186. Present Employes Exempted.—All appointments in the police or fire forces of boroughs,

including the chief of police or equivalent official, upon the effective date of this act, shall continue to hold their positions and shall not be required to take any examination under the provisions of this act, except such as may be required for promotion: Provided, however, That this section shall not be construed to apply to persons employed temporarily in emergency cases.

Section 1187. Discrimination on Account of Political or Religious Affiliations.—No question in any form of application for examination or in any examination shall be so framed as to elicit information concerning the political or religious opinions of any applicant, nor shall inquiry be made concerning such opinion or affiliations and all disclosures thereof shall be discounted.

No discrimination shall be exercised, threatened or promised by any person against or in favor of any applicant or employe because of political or religious opinions or affiliations or race, and no offer or promise of reward, favor or benefit, directly or indirectly, shall be made to or received by any person for any act done or duty omitted or to be done under this subdivision of this article.

Section 1188. Penalty.—Any councilman who, by his vote, causes to be appointed any person to the police force or as a fire apparatus operator contrary to the provisions of this act, or any councilman or member of the commission who wilfully refuses to comply with, or conform to, the provisions of subdivision (j) of this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred dollars (\$100.00), or suffer imprisonment not exceeding three months, or both.

Section 1189. Salaries of Civil Service Commission.—The civil service commissioners of boroughs shall receive no compensation.

Section 1190. Police Force and Fire Apparatus Operators Defined.—Police force as used in subdivisions (i) and (j) of this article shall mean a police force organized and operating as prescribed by law, the members of which devote their normal working hours to police duty or duty in connection with the bureau agencies and services connected with police protection work, and who are paid a stated salary or compensation for such work by the borough.

Fire apparatus operators as used in this subdivision (j) of this article shall mean any person who operates fire apparatus and devotes his normal working hours to operating any piece of fire apparatus or other serv-

ices connected with fire protection work, and who is paid a stated salary or compensation for such work done by the borough.

Section 40. Sections 1201 and 1202 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 1201 and 1202, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE XII

CORPORATE POWERS

Section 1201. General Powers.—A borough may:

I. Have succession perpetually by its corporate name.

II. Sue and be sued, and complain and defend in the courts of the Commonwealth.

III. Make and use a common seal, and alter the same at pleasure.

IV. Purchase, *acquire by gift, or otherwise*, hold, lease, let, and convey, such real and personal [estate as the purposes of the borough shall require] *property as shall be deemed to be to the best interest of the borough.*

Section 1202. Specific Powers.—[The words “corporate authorities” or “corporate officers,” when applied to boroughs, shall mean the borough council, even though the action undertaken is by ordinance and subject to the approval or veto of the burgess. The legislative powers of boroughs, including any capital expenditures not payable out of the current funds for the year, shall be exercised by or based upon an ordinance, and all other powers by vote of the majority of council present at a meeting unless otherwise prescribed. Routine ministerial or administrative purchases and powers may be made and exercised by officers or committees, if authority therefor is previously given or the action is subsequently ratified by council. As thus defined, boroughs shall have power.] *The powers of the borough shall be vested in the corporate officers. They shall have power:*

I. Street, Sewer, Building, Et Cetera, Regulations.—To regulate the [roads,] streets, [lanes, alleys, common] sewers, public squares, common grounds, [footwalks] *sidewalks, curbs, gutters, culverts, and drains, and the heights, grades, widths, slopes, and [forms] construction thereof; and to prohibit the erection or construction of any building or other obstruction to the convenient use of the same.*

II. Fees for Service of Officers.—To prescribe reasonable fees for the services of their officers in the adjustment of grades, curbs, lines of streets, and the like, and to enforce the payment of the same.

III. Water Supply.—To provide a supply of water for the use of the inhabitants, and to make regulations for the protection of the pipes, reservoirs, and other constructions or apparatus; and to prevent the waste of water so supplied.

IV. [Night Watch.—To establish a night watch.] *Police Force.—To establish a police force.*

V. Street Lighting.—To provide street lights and to make regulations for the protection thereof; and, upon the petition of a majority of abutting property owners of the section affected, to provide for the ornamental illumination of any section of the borough and to collect the cost of the installation of such illumination from the owners of property fronting the streets upon which the same is installed by the foot-front rule.

VI. Comfort Stations.—To construct and maintain, [in any of the highways] within the borough limits, comfort and waiting stations and drinking fountains. The damages accruing to abutting properties, by reason of any such improvements, shall be ascertained and collected in the manner provided in article fourteen of this act.

VII. Watering Troughs.—To erect *and maintain* watering troughs.

VIII. Nuisances.—To prohibit and remove any obstruction or nuisance in the [highways] *streets* of the borough.

IX. Nuisances and Dangerous Structures.—To prohibit and remove any nuisance or dangerous structure on public or private grounds, or to require the removal of the same by the owner or occupier of such grounds, in default of which the borough may cause the same to be done, and collect the cost thereof, together with a penalty of [twenty] *ten* per centum of such cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, *or may seek relief by bill in equity.*

X. Hogs.—To prohibit the keeping of hogs within the borough, or within any part of the borough.

XI. *Cesspool and Drain Regulations.—To make regulations respecting vaults, cesspools, plumbing, and drains.

XII. Manure and Compost Regulations.—To make regulations relative to the accumulation of manure, compost and the like.

XIII. Garbage and Rubbish.—To prohibit accumulations of garbage or rubbish upon private properties, and to prescribe penalties for the enforcement thereof.

* "Cesspools," in original.

XIV. Removal of Garbage, Et Cetera.—To make regulations for the care and removal of garbage and other refuse material, including the imposition and collection of reasonable fees and charges therefor, and to prescribe fines and penalties for the violation of such regulations.

XV. Garbage Plants.—To erect, maintain, and operate garbage-plants, *either within or without the limits of the borough*, or to provide other means for the collection, destruction, or removal of garbage and other refuse material, and to provide for the payment of the cost or expense thereof, either in whole or in part, out of the funds of the borough.

XVI. Noxious and Offensive Businesses.—To prohibit, within the borough, the carrying on of any manufacture, art, trade or business which may be noxious or offensive to the inhabitants.

XVII. Health and Cleanliness Regulations.—To make such [other] regulations as may be necessary for the health, *safety, morals, general welfare* and cleanliness and the beauty, convenience, comfort, and safety of the borough.

XVIII. Fire Regulations.—To make regulations, within the borough, or within such limits thereof as may be deemed proper, relative to the cause and management of fires and the prevention thereof.

XIX. Fire Apparatus and Houses.—To purchase, *or contribute to the purchase of*, fire-engines and fire-apparatus and supplies for the use of the borough, and to appropriate money to fire companies and for the construction, repair, and maintenance of fire company houses.

XX. Wooden Structures.—To prohibit or regulate the erection of wooden *buildings and* structures.

XXI. Buildings and Building Inspection.—To make regulations for the construction of new buildings, and repair of old ones; and to require that, before the work begins, [municipal] approval of the plans and specifications therefor be secured; and to provide for the inspection of such construction and repair, including the appointment of one or more building inspectors; to prescribe limits wherein none but buildings of non-combustible material and fireproof roofs shall be erected, or substantially reconstructed, or removed thereinto; and to provide penalties for the violation of such regulations. Any building erected, reconstructed, or removed, contrary to the provisions of any ordinance passed for any of the purposes specified in this clause, is declared to be a public nuisance and abatable as such.

XXII. Inflammable Articles.—To prohibit the manufacture, sale, [or exposure of fireworks, or other] or storage of inflammable or dangerous articles; to prescribe the quantities of inflammable articles that may be kept in place; and to prescribe such other safeguards as may be necessary.

XXIII. Party Wall and Fence Regulations.—To make regulations respecting partition fences and the foundations and party-walls of buildings.

XXIV. Fees of Officers.—To prescribe reasonable fees for the service of [their] borough officers in the adjustment of party-walls, partition fences, and the like, and to enforce the payment of the same.

XXV. Building Lines.—By suitable ordinance to establish and maintain uniform building lines upon any or all [public] streets [roads, highways, lanes, and alleys] of said boroughs. [and townships.]

XXVI. Licensing Amusements.—To regulate, license, fix the time of opening and closing, or prohibit theatrical exhibitions, amusements, dances, at which an admission or other fee is charged and other exhibitions; to regulate, [and] license and to fix the time of opening and closing of pool-rooms, billiard-rooms, shooting galleries, skating rinks and [tenpin] bowling alleys.

XXVII. Markets, [and] Market Houses and Peddling.—To regulate markets and peddling, whether for individual use or for resale, and to provide for the inspection of milk; and to purchase and own ground for and to erect, establish, and maintain market houses and market places, for which latter purposes, parts of any streets or sidewalks may be temporarily used; to contract with any person or persons, or association of persons, companies, or corporations, for the erection, maintenance, and regulation of market houses and market places, on such terms and conditions, and in such manner, as the council may prescribe; to provide and enforce suitable regulations [of] respecting said market houses and market places and to provide for the payment of the cost or expense thereof, either in whole or in part, out of the funds of the borough; and to levy and collect a suitable license tax from every person [or persons] who may be authorized by council to occupy any portion of said market houses or market places, or any portion of the streets or sidewalks for temporary market purposes.

XXVIII. [Weights and Measures.—To regulate the scales, weights, and measures, according to the standard of the Commonwealth; to provide for the confiscation of false weights and measures; and to regulate the inspection and measurement or weight of articles offered

for sale in the borough.] *Joint Municipal Agreements.*—To enter into agreements with other political subdivisions, in accordance with existing laws, in making joint purchases of materials, supplies or equipment and in performing governmental powers, duties and functions and in carrying into effect provisions of law relating to said subjects which are common to such political subdivisions.

XXIX. Insurance on Property.—To make contracts of insurance, with any mutual or other fire insurance company, association or exchange, duly authorized by law to transact insurance business in the Commonwealth of Pennsylvania, *on any building or property owned by the borough.

XXX. [Compensation] *Other Insurance.*—To appropriate such amount as may be necessary to secure insurance or compensation for volunteer firemen killed or injured while going to, returning from, or attending fires [in the borough or territory adjacent thereto]. To make contracts of insurance with any insurance company, association or exchange, authorized to transact business in this Commonwealth, insuring borough employes, or any class, or classes thereof, under a policy or policies of insurance covering life, health or accident insurance, and to contract with any such company, granting annuities or pensions, for the pensioning of such employes, and to agree to pay part or all of the premiums or charges for carrying such contracts, and to appropriate moneys from the borough treasury for such purposes.

XXXI. Appropriations to County Borough Associations.—To appropriate annually a sum of money, not exceeding seventy-five dollars for the support of any association, composed of electors of the several boroughs, cities of the third class and townships within the county, formed for the study and investigation of the welfare, economics, management, and government of boroughs, cities of the third class and townships, and for the protection and safeguarding of the rights and franchises of boroughs and townships, and for the purpose of recommending legislation beneficial to boroughs and townships, or any one or more of such purposes, and also annually a sum of money not exceeding seventy-five dollars [(\$75.00)] for the support of an association, composed of elected and appointed borough officials in a particular county or in several adjoining or nearby counties, organized for the purpose of furthering the interests of the boroughs in the association and their inhabitants. Within the aforesaid limit the association may fix the scale of annual dues on a popu-

* "or," in original.

lation, or other reasonable basis, but each borough member shall have an equal voice in its affairs.

The association may adopt its own plan of organization, government and procedure and provide means of stimulating interest and attendance at meetings, and provide for help and instruction to its members. Appropriations when made to *the county **association shall ***hereafter be under its control, either through authorization of expenditure or by subsequent ratification. A county association may affiliate itself with other political subdivisions, when mutual municipal or public interests are involved, and may withdraw therefrom.

XXXII. Dogs.—To prohibit or regulate the running at large of dogs and, in the enforcement of such regulations, to direct the killing of dogs, or their seizure and *detention, including reasonable charges therefor, or to provide for their sale for the benefit of the borough.*

XXXIII. Animals.—To prohibit and regulate the running at large of other animals, and to authorize their seizure and *detention, including reasonable charges therefor, or to provide for their sale for the benefit of the borough.*

XXXIV. Fines and Forfeitures.—To impose fines and penalties, incurring partial or total forfeitures, or to remit the same.

XXXV. Lockup.—To provide a lockup for the temporary detention of persons.

XXXVI. Flags.—To display the flag of Pennsylvania, or the flag of any county, city, borough or other municipality in the State, on the public buildings of the borough.

XXXVII. Contracts with Railways, Et Cetera.—To enter into contract with any *person or company, operating a street passenger railway, [company] surface, elevated, or underground, or [motor power company] furnishing motor transportation, or leasing and operating the franchise and property of such person or company within the limits of the borough, regulating the franchises, powers, duties, and liabilities of such persons or companies, and the respective rights of the contracting parties. Such contracts may, inter alia, provide for payments by the persons or companies to the borough, in lieu of the performance of certain duties, or the payment of license fees or charges imposed in favor of such borough, or by the charters of [the respective] any such companies, or by any general law, or ordinances; for*

* "the," omitted in original.

** "associations," in original.

*** "hereafter," in original.

the appointment by the borough of a certain number of persons to act as directors of *any* such company, in conjunction with the directors elected by the stockholders of such company; and may further provide for the ultimate acquisition by the borough, upon terms mutually satisfactory, of the leaseholds, property, and franchises of the contracting *persons or companies*.

XXXVIII. Eminent Domain for National Guard Purposes.—To take, by right of eminent domain, for the purpose of appropriating to themselves for the use of the National Guard of Pennsylvania, such public lands, easements, and public property, as may be in their possession or control and used or held by them for any other purpose. Such right, however, shall not be exercised as to any street or wharf. [but all other public easements and property may be appropriated and used for the purposes herein provided, any limitation of the use thereof by the borough, either by *donation, dedication, appropriation, statute, or otherwise to the contrary notwithstanding.]

XXXIX. Lands for Armory Purposes.—To acquire, by purchase or by gift or by the right of eminent domain, any land for the use of the National Guard of Pennsylvania; to convey such lands so acquired to the Commonwealth of Pennsylvania *in order to* assist the Armory Board in the erection of armories. [The proceedings for the condemnation of lands, under the provisions of this clause, and for the assessment of damages for property taken, injured or destroyed, shall be taken in the same manner as is now provided by law for the condemnation of lands for public purposes in boroughs.] The power conferred by this clause shall not be exercised to take any church property, graveyard, cemetery, or any dwelling-house or the curtilage of the same in the actual occupancy of the owner.

XL. Appropriation of Money, Et Cetera, to Assist in Erection of Armories.—To appropriate money or convey land, either independently or in conjunction with any county, city, town, borough, or other municipal division to the Commonwealth [of Pennsylvania,] for the purpose of assisting the Armory Board of the Commonwealth [of Pennsylvania] in the erection of armories for the use of the National Guard; and to furnish water, *sewer service*, light, or fuel, free of cost, to the Commonwealth [of Pennsylvania] for use in any armory of the National Guard; and to do all things necessary to accomplish the purpose of this clause.

XLI. Appropriations for Memorial Day.—To appropriate money for the expenses of Memorial Day services.

* "domain," in original.

XLII. Appropriations to [Posts] *Organizations of Veterans.*—To appropriate annually a sum not exceeding five hundred dollars to [each camp of the United Spanish War Veterans, and to each post of the American Legion, and to each post of the Veterans of Foreign Wars, and to each Naval Association, and to each post of the Disabled American Veterans of the World War] *organizations composed of veterans of any war in which the United States was engaged* [and to each organization of ex-service men incorporated under the act of April twenty-ninth, one thousand eight hundred and seventy-four, and the supplements thereto, in the respective *boroughs a sum not to exceed two hundred dollars] to aid in defraying the expenses of Memorial Day, [and] Armistice Day, *or any similar day hereafter provided for by State or Federal Law.* Such payments shall be made to defray actual expenses only. Before any payment is made, the organization receiving the same shall submit verified accounts of their expenditures.

XLIII. [Appropriations to Grand Army Posts.—To make, and they are hereby so required, annual appropriations to each post of the Grand Army of the Republic in the borough, in a sum not exceeding fifty dollars, to aid in defraying expenses of Memorial Day, and, if there is no post in said borough, then said appropriation may be made to a post in any municipality or township to be designated by the council.] *Parking Lots.*—*To acquire by lease, purchase or eminent domain any land which the corporate authorities may deem necessary or desirable for the purpose of establishing and maintaining parking lots, and to regulate the use thereof, and to regulate parking and provide parking accommodations so as to promote the convenience and protection of the public.*

XLIV. Payment of Rent for Veterans' [Posts and Camps] *Organizations.*—By a two-thirds vote of the council, *to appropriate money to any incorporated [camp or post] organization of veterans of any war in which the United States was engaged, to be used in the payment of the rent of any building or room or rooms in which such camp or post has its regular meetings.*

XLV. Rooms for Veterans' [Posts and Camps] *and Sons of Veterans' Organizations.*—Upon application therefor, to furnish to each organization composed of veterans of [the Civil War, veterans of the Spanish-American War, veterans of the War with Germany and Austria, veterans of any foreign war] *any war in which the United States was engaged* and sons of veterans, a

* "borough." in original.

room or rooms in any public building of such borough, sufficient for the meeting of each of such organizations at least once each month; and in the case of municipally owned utilities, to furnish service without charge to such rooms, and also to buildings occupied by [posts, camps, or] *organizations of veterans of any war in which the United States was engaged.*

XLVI. Care and Erection of Memorials.—To take charge of, care for, maintain, and keep in good order and repair, at the expense of the borough, any soldiers' monument, gun, or carriage, or similar memorial, situate in the borough, and not in the charge or care of any person, body, or organization, and not put up or placed by the Government of the United States, the Commonwealth of Pennsylvania, the commissioners of the county, or by the direction or authority of any *other State of the Union, and to receive from any person or organization any moneys or funds which can be used for the maintenance of such memorials, and to expend the same; and to erect [and provide for] *or contribute to* the erection of, memorials in honor of those who served in any war in which the United States was engaged, at a cost *or in a sum* not to exceed one thousand dollars [(\$1,000)], and thereafter *to* properly and adequately maintain the same.

XLVII.—Numbering Buildings.—To require and regulate the numbering of buildings.

XLVIII. Municipal Music.—To appropriate money, not in excess of the sum of one thousand dollars [(\$1,000)], annually, for the expense of municipal music.

XLIX. Purchase and Planting of Trees; Appropriations to Forest Protection Associations.—To *accept*, purchase and plant, *or contribute to the purchasing and planting of* shade trees along the [highway] *streets* and sidewalks of the borough. [at the expense of the borough, and to appropriate moneys to any forest protection association, cooperating in forest work with the State Department of Forests and Waters, or to be expended in direct cooperation with said Department of Forests and Waters in forest work.]

L. Appropriations for Burial-Ground Maintenance.—To appropriate annually, out of the general funds of the borough, a sum not exceeding five hundred dollars [(\$500.00)] for the care, upkeep, maintenance, and beautifying of cemeteries, burial-grounds, and private roads therein or leading thereto, lying wholly or partly within the boundary limits of such borough, or in the territory immediately adjacent [or contiguous to] the borough.

* "other," omitted in original.

LI. Smoke Regulations.—To regulate the emission of smoke from chimneys, smokestacks, and other sources. Provided, however, That this clause shall not apply to locomotive smoke-stacks.

LII. Municipal Claims.—To file and collect municipal claims for water rents, lighting rates, and sewer rates, in the manner [now] provided by law.

LIII. [Regulation of Contracts.—To make, to authorize and to ratify expenditures for lawful purposes from funds available therefor, out of the current year's revenues or made available therefor by borrowing within legal limitations: Provided, That all contracts or purchases in excess of five hundred dollars (\$500), except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder after due notice in one newspaper of general circulation, published or circulating in the county in which the borough is situated, at least three times at intervals of not less than three days where daily newspapers of general circulation are available for such publication, and in the case of weekly newspapers, shall be published once a week for two successive weeks. The first advertisement shall be published not less than ten days prior to the date fixed for the opening of bids.

The acceptance of bids shall only be made by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at subsequent meetings: Provided, That at least five days' notice thereof shall be published in the newspaper aforesaid.

The successful bidder, when advertising is required herein, shall be required to furnish a bond with suitable, reasonable requirements, guaranteeing the work to be done, with sufficient surety in the amount of fifty per centum (50%) of the amount of the contract, within ten days after the contract has been awarded, and upon failure to furnish such bond, within such time, the previous award shall be void: Provided, That delivery, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein.

The contracts or purchases made by any council, involving an expenditure of over five hundred dollars (\$500), which shall not require advertising or bidding, as hereinbefore provided, are as follows:

(a) Those made for maintenance, repairs or replacements for water, electric light and other public works of the borough, provided they do not constitute new

additions, extensions or enlargements of existing facilities, and equipment, but a bond may be required by council, as in other cases *of work done;

(b) Those made for improvements, repairs or maintenance of any kind, made or provided by any borough, through its own employes: Provided, however, That this shall not apply to construction materials used in a street improvement;

(c) Those where particular types, models or pieces of equipment, articles, apparatus, appliances, vehicles or parts thereof, new, second hand or rebuilt are desired by council, which are patented and manufactured products;

(d) Those involving any policies of insurance or surety company bonds, those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission, those made with any municipal authority, those in which another political subdivision, county, the Commonwealth of Pennsylvania, or the Federal Government or any agency of the Commonwealth, or Federal Government, or any municipal authority is a party or **cooperates, including herein the sale, leasing or loan of any supplies or materials by the Commonwealth, or the Federal Government, or their agencies: Provided, however, That the price thereof or the expenditure therefor shall not be in excess of those fixed by the Commonwealth, the Federal Government, or their agencies.

(e) Those involving personal or professional services. Except as herein provided, no borough official, either elected or appointed, who knows or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the borough, or for any work to be done for such borough, involving the expenditure by the borough of more than three hundred dollars (\$300) in any year, but this limitation shall not apply to cases where such officer or appointee of the borough is an employe of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction, and in which he cannot be possibly benefited thereby, either financially or otherwise: Provided, however, That in the case of a councilman or burgess, if he knows that he is within the exception just mentioned, he shall so inform council and shall refrain from voting on the expenditures, or any ordinance relating thereto, and shall in no manner participate therein: Provided further, That any such official or appointee, who shall

* "or," in original.

** "cooperates," in original.

knowingly violate this provision, shall be subject to surcharge to the extent of the damage shown to be thereby sustained by the borough, ouster from office, and, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500.) *Zoning Ordinances.*—*To adopt and enforce zoning ordinances regulating the location, construction and use of buildings, the size of courts and open spaces, the density of population and the use of lands.*

LIV. [Bonds for the Protection of Labor and Materialmen.—It shall be the duty of every borough to require any person, copartnership, association, or corporation, entering into a contract with such borough for the construction, erection, installation, completion, alteration, repair of, or addition to, any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of five hundred (\$500) dollars, before commencing work under such contract, to execute and deliver to such borough, in addition to any other bond which may now or hereafter be required by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association, or corporation interested, in a sum not less than fifty (50%) per centum and not more than one hundred (100%) per centum of the contract price, as such borough may prescribe, having as surety thereon one or more surety companies legally authorized to do business in this Commonwealth, conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the borough for the use of any party interested therein. Every such additional bond shall provide that every person, copartnership, association, or corporation, who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above *provided, and who has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the borough, for his, their, or its use, and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or it, and have execution thereof: Provided, however, That the borough shall not be liable for the payment of any costs or expense of any suit.] *General Powers.*—*To make and adopt all such ordinances, by-laws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Common-*

* "provided," in original.

wealth, as may be expedient or necessary for the proper management, care and control of the borough and its finances, and the maintenance of peace, good government, safety and welfare of the borough and its trade, commerce and manufactures.

LV. Disorderly Conduct; Ordinances.—To adopt ordinances defining disorderly conduct within the limits of the borough, and to provide in such ordinances for the imposition of penalties for the violation thereof. *Notwithstanding like statutes pertaining to the same or similar offenses.*

LVI. Community Buildings.—To purchase and own ground for, and to erect, establish, or purchase a building, to be used [as a] for community [building or center,] *purposes* and to maintain the same; to provide for the payment of the cost thereof, and the expense of such maintenance either in whole or in part out of the funds of the borough.

LVII. Creation of Special Funds; Investments.—To set aside in a separate fund any moneys received out of or from the sale, lease, or other disposition of any borough property or received from any source other than taxation, unless such money was received or acquired for a particular purpose. Such fund shall be controlled, invested and administered, and the income arising therefrom expended, in such manner as may be determined by action of the council pursuant to the ordinance creating the fund. [; and such] *Such* ordinance may provide that only the income from such fund may be used or expended, and that neither principal, nor any part thereof, may be used or expended unless upon authorization of a majority vote of the qualified electors of the borough [—in the same manner as an election under the then existing laws of the Commonwealth of Pennsylvania upon a proposed increase in the corporate indebtedness of such borough is required to be submitted to the electorate thereof]. All ordinances heretofore enacted and ordained by any borough, creating and establishing such a separate fund as is authorized by this clause, shall be deemed and taken as valid and effectual for all purposes: Provided, That all other requirements of law concerning the enactment of the same have been complied with.

LVIII. Inclined Planes.—To acquire by purchase, lease, or otherwise, from a public service company, any existing inclined plane passenger and vehicular traffic transportation facilities, and to maintain and operate the same in the transportation of passengers and vehicles for hire, and for the accommodation of the public, and in like manner to acquire or to establish bus feeder lines,

and to maintain and operate the same in connection with such inclined plane passenger and vehicular traffic transportation facilities.

LVIII.I. [A. *Contracts with Adjacent Municipalities for Fire Protection] *Joint Contracts for Police and Fire Protection.*—To enter into contracts with the proper authorities of near or adjacent cities, boroughs, or townships, either for mutual aid or assistance in police and fire protection, or for the furnishing to, or receiving from, such cities, boroughs, or townships, aid and assistance in police and fire protection, and to make appropriations therefor: Provided, That in connection with such contracts, it shall not be necessary to advertise for bids or receive bonds as required for other contracts under existing law.

LIX. Support of National Guard Units.—To appropriate annually a sum not exceeding seven hundred and fifty dollars for the support and maintenance, discipline and training of any dismounted company or similar unit of the National Guard, and a sum not to exceed fifteen hundred dollars for the support and maintenance of any mounted or motorized troop or similar unit of the National Guard. Where such units are organized as a battalion, regiment or similar organization, the total amount due may be paid to the commanding officer of the battalion, regiment or similar organization. Any moneys so appropriated shall be paid by warrant drawn to the order of the commanding officer of such company, battalion, regiment or similar organization, only when it shall be certified to the borough, by the Adjutant General of the State, that the said company or companies have satisfactorily passed the annual inspection provided by law. The moneys so appropriated shall be used and expended solely and exclusively for the support and maintenance, discipline and training of the said company, battalion, regiment, or similar organization; and the commanding officer shall account, by [the] proper vouchers to the said borough each year, for the expenditure of the money so appropriated, and no appropriation shall be made for any subsequent year until the expenditure of the previous year is duly and satisfactorily accounted for.

The accounts of such expenditures shall be subject to the inspection of the Department of Military Affairs, and shall be audited by the Auditor General in the manner provided by law for the audit of accounts of State moneys.

LX. Hospital Appropriations.—[For] *In the case of boroughs having a population of two thousand inhabi-*

* "Contract." in original.

tants and upwards, to appropriate moneys for the support of any incorporated hospital which is engaged in charitable work and extends treatment and medical attention to residents of such borough, but no such appropriation shall exceed in any year the cost of free service extended to residents of the borough which is in excess of any amount paid by the Commonwealth towards such free service.

LXI. Building Codes by Reference.—To enact and enforce suitable ordinances relating to buildings, their construction, alteration, extension, repair, maintenance and all facilities and services in or about such buildings, and for the enforcement thereof, and provide for the enforcement thereof by a reasonable fine, and by instituting appropriate actions or proceedings at law, or in equity, to effect the purposes of this [act] *provision* and ordinances thereunder. At least one week and not more than three weeks prior to the presentation of the proposed building code ordinance to council, *an informative notice of intention to consider such proposed ordinance and a brief summary setting forth the principal provisions of the proposed ordinance in such reasonable detail as will give adequate notice of its contents, pursuant to a uniform form, which shall be prepared or approved by the Department of Internal Affairs, and a reference to the place or places within the borough where copies of the proposed building code may be examined or obtained, shall be published in the manner provided by law for the publication of ordinances.

The provisions of the ordinance need not be advertised or recorded as in other cases, but may be supplied by reference to a standard building code, approved by the Department of Internal Affairs of the Commonwealth, or to parts thereof, determined by council, or the provisions of the ordinance may be supplied by reference to a typed or printed building code, prepared under the direction of or accepted by the borough council, or the provisions may consist of a standard code approved as aforesaid, or parts thereof, and also further provisions typed or printed as aforesaid. Copies of the ordinance thus adopted by reference shall be made available to any interested party at the cost thereof, or may be furnished or loaned without charge, and a copy of such ordinance whether by reference to a standard building code or to a typed or printed code, or a combination of them, shall be attached to the ordinance book with the same force and effect as if duly recorded therein. The procedure set forth relating to the adoption of the ordinance, by reference, may likewise be adopted in amending, supplementing or repealing any of the provisions of the ordinance.

* "and," in original.

LXII. Community Nurse Services.—To appropriate money not in excess of five hundred dollars [(\$500.00)] annually for the expense of community nurse services.

LXIII. Community Ambulance Service.—To appropriate money [not in excess of one thousand dollars (\$1,000.00)] annually [for the expense of the maintenance and support of] *towards* a nonprofit community ambulance service.

LXIV. Junk Yards.—*To regulate the establishment and maintenance of junk yards, salvage yards and other places used and maintained for the collection, storage and disposal of used or second-hand goods and materials.*

LXV. Regulation of Charges in the Operation of its Utilities, Parking Meters, Parking Lots or its Other Facilities and Services to the Public.—*To make and regulate charges therefor for general borough purposes in relief of taxes on real estate.*

Sections 1301 to 1304, Article XIII, act of May 4, 1927 P. L. 519, reenacted, revised and amended and sections 1305-1311 added to Article XIII.

Section 41. Sections 1301, 1302, 1303 and 1304 of Article XIII of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended and sections 1305, 1306, 1307, 1308, 1309, 1310 and 1311 are added to said Article XIII as follows:

ARTICLE XIII

TAXATION AND FINANCE

Section 1301. [General] *Tax Levy.*—The council of the borough shall have power, by ordinance, to levy and collect annually, [for general borough purposes,] any tax, not exceeding fifteen [(15)] mills *for general borough purposes and in addition thereto such additional *millage as may be sufficient to pay interest and sinking fund charges on the indebtedness of the borough. Where the borough council by majority action shall, upon due cause shown, petition the court of quarter sessions for the right to levy additional millage, the court after such public notice as it may direct and after hearing may order a greater rate than fifteen (15) mills, but not exceeding five additional mills to be levied. The said taxes shall be levied on the dollar on the valuation assessed for county purposes, as now is or may be provided by law. All real property, offices, professions, and persons, made taxable by the laws of this Commonwealth for county rates and levies, may, in the discretion of council, be taxed after the same manner for [general borough] such purposes. No action on the part of the borough authorities fixing the tax rate for any year at a mill rate need*

* "millage," in original.

include a statement expressing the rate of taxation in dollars and cents on each one hundred dollars of assessed valuation of taxable property.

[Section 1301.1. Additional Levy.—The council of the borough shall have power to levy and collect annually on the valuation assessed for county purposes as now is or may be provided by law, an additional tax sufficient to pay interest and sinking fund charges on its indebtedness, together with any taxes conventioned to be paid thereon, and all property, offices, professions and persons made taxable by the laws of the Commonwealth for county rates and levies may, in the discretion of council, be taxed after the same manner for this additional levy: Provided, That nothing] *Nothing* herein contained shall prevent the application of moneys received from taxes levied for general purposes to the purposes of [this additional levy] *paying interest and sinking fund charges on indebtedness.*

Section 1301.1. Additional Tax for Municipal Employes' Benefit.—The council of the borough shall have the power to levy and collect annually on the valuation assessed for general borough purposes, as now is or may be provided by law, an additional tax not exceeding one-half (½) mill to provide for pensions, retirement or the purchase of annuity contracts for municipal employes. This tax shall be kept in a separate fund and used only for the purposes herein provided.

Section 1302. Special Levy to Pay Debts.—In addition to the levy provided for in the preceding section, when it shall be shown to the court of quarter sessions of the county that [the debts due by any borough exceed the amount which the borough may collect in any one year by taxation, or when] the [proper officers] *corporate authorities* refuse or neglect to levy a sufficient tax to pay the [same] *debts due by the borough*, the court may, after ascertaining the amount of such indebtedness of the borough, direct a writ of mandamus to the proper officers of such borough to collect by special taxation an amount sufficient to pay the same in one or more annual *instalments, as may be adjudged reasonable by said court, during such years as may be required for the payment of the same.

Section 1303. Tax Collector to Furnish Address, Et Cetera, to County Treasurer.—The tax collector, before he assumes the duties of his office, shall notify the county treasurer, in writing, setting forth his name, address where taxes are receivable, the office hours when he sits, to receive taxes, and the borough for *and in* which he collects taxes.

* "installments," in original.

Section 1304. *Date Tax Duplicate to Issue.*—The corporate authorities of the borough shall, [on or before the first day of June of each year,] *as soon as possible after receipt of the assessment roll from the county,* issue their duplicate of taxes assessed to the collector of taxes of the borough [with their warrants attached, directing and authorizing him to collect the taxes therein assessed and levied].

Section 1305. *Preparation of Budget.*—(a) *During the month of January a proposed budget or annual estimate of revenues and expenditures shall be prepared in a manner designated by the council. The budget shall be prepared on a uniform form prepared and furnished as hereinafter provided. The proposed budget shall be kept on file with the borough secretary and by him be made available for public inspection for a period of ten days.*

Section 1306. *Notice of Proposed Budget; Penalty.*—*Notice that the proposed budget is available for inspection shall be published by the borough secretary in a newspaper of general circulation in the borough, except in boroughs where the estimated budget receipts are less than five thousand dollars, where in lieu of such newspaper publication, notice may be conspicuously posted during the ten day period, in a place readily viewable by the public at the office of the borough secretary and with such further notice as shall be prescribed by council. Failure to give the notice herein required shall not invalidate the budget adopted or the tax ordinance. Any borough secretary who shall fail or refuse to give the notice that the proposed budget is available for inspection, as herein required, shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine not exceeding one hundred dollars and costs of prosecution.*

Section 1307. *Revision and Completion of Budget.*—*After the expiration of the said ten days, council shall make such revision in the budget as shall be deemed advisable. The budget shall be as comprehensive and exact as the information available will admit. In addition to expenditures proposed for the current fiscal year, council may include as proposed expenditures a sum sufficient to pay any existing indebtedness and to pay the ordinary operating expenses for the subsequent year until the taxes of the subsequent year are received therefor, and may also include a sum to provide in whole or in part for any deferred maintenance, depreciation and replacements. Within the tax levy and debt limitations, council may also include, in whole or in part, expenditures for capital improvements and purchases. Expenditures of a legislative character shall be made, authorized*

or ratified by ordinance. Other expenditures allowed by law may be made or ratified by motion in council. Such expenditures, whether by ordinance or motion, shall then be considered as appropriations affecting the budget. Any balance of revenues over expenditures may be expended in any subsequent year for any lawful purpose.

Section 1308. Adoption of Budget; Tax Ordinance.—Upon completion of the budget, containing the estimated receipts and expenditures, and its adoption by motion in council, it shall be the duty of the council to adopt an ordinance levying the tax for the fiscal year for approval of the burgess or passage over his veto.

The fixing or changing of the compensation or bonds of officials may be made by vote of the council or may be embodied in the tax ordinance. Any ordinance relating to the fiscal affairs of the borough may include the tax ordinance aforesaid instead of a separate tax ordinance, and it may include therein any matters requiring the formalities of an ordinance or deemed informative by council.

Copy of the budget together with the tax ordinance shall be filed with the Department of Internal Affairs by the secretary of the borough, within fifteen days after the adoption of the tax ordinance.

Section 1309. Modification of Budget; Supplemental Appropriations and Transfers.—The council in its reasonable discretion may, by motion, modify the budget after its final adoption. New appropriations, supplementary appropriations and transfers from one appropriation to another may be made during the fiscal year, either before or after the expenditure is authorized or ratified after the expenditure is made, provided it is within the current year's revenues, or the money therefor promptly made available through borrowing as allowed by law.

Section 1310. Payments from Borough Funds.—All payments made by the council of any borough from the borough funds shall be made by proper borough orders, drawn upon the treasurer; no borough order shall be authorized by council or signed by the president or secretary of any council unless there are sufficient funds in the treasury of the borough to pay the same, and no orders shall be made payable at any time in the future or draw interest. A separate borough order shall be drawn for each account or payment.

Section 1311. Uniform Budget and Financial Report Forms.—The uniform forms for the annual budget, the annual auditor's report and the annual financial statement required to be made by the *auditors or the

* "auditor's." in original.

controller shall be prepared by a committee consisting of four representatives from the Pennsylvania State Association of Boroughs, and the Secretary of Internal Affairs, or his agent.

Such representatives of boroughs shall be appointed by the president of the organization. Such representatives shall be chosen from among finance officers or other officers of boroughs who have knowledge of their fiscal procedures. As far as possible, they shall be chosen to represent boroughs in the various population groups. The president of the organization shall supply to the Department of Internal Affairs the names and addresses of such representatives immediately upon their appointment.

Such representatives shall serve without compensation, but shall be reimbursed by the Commonwealth for all necessary expenses incurred in attending meetings of the committee. The committee shall meet at the call of the Secretary of Internal Affairs, or his agent, who shall serve as chairman of the committee.

In preparing such uniform forms, the committee shall give careful consideration to the fiscal needs and procedures of boroughs of the various population groups, producing separate forms if necessary, to the end that such forms shall not be inconsistent with the general administrative practices of boroughs of various types and sizes.

It shall be the duty of the Secretary of Internal Affairs, or his agent, to see to it that the forms required by this article are prepared in cooperation with such committee. In the event that the committee should for any reason fail to furnish such cooperation, the Secretary of Internal Affairs, or his agent, shall prepare the forms. After their preparation, he shall issue such forms and distribute them annually, as needed to the proper officers of each borough.

Act of May 4,
1927 P. L. 519,
amended by add-
ing Article XIII.I
and sections
1315 to 1324.

Section 42. The said act of May 4, 1927 (Pamphlet Laws 519) is hereby amended by adding thereto Article XIII.I and sections 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323 and 1324 as follows:

ARTICLE XIII.I

CONTRACTS

Section 1315. Power to Make Contracts.—Each borough may make contracts for lawful purposes and for the purposes of carrying into execution the provisions of this act and the laws of the Commonwealth.

Section 1316. Regulation of Contracts.—(a) All contracts or purchases in excess of five hundred dollars,

except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder after due notice in one newspaper of general circulation, published or circulating in the county in which the borough is situated, at least three times at intervals of not less than three days where daily newspapers of general circulation are available for such publication, and in case of weekly newspapers, shall be published once a week for two successive weeks. The first advertisement shall be published not less than ten days prior to the date fixed for the opening of bids.

(b) The acceptance of bids shall only be made by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same *business may be transacted at any subsequent meeting if at least five days notice thereof shall be published in the newspaper aforesaid.

(c) The successful bidder when advertising is required herein, shall be required to furnish a bond with suitable, reasonable requirements, guaranteeing the work to be done, with sufficient surety in the amount of fifty per centum of the amount of the liability under the contract, within twenty days after the contract has been awarded, unless council shall prescribe a shorter period of not less than ten days; and upon failure to furnish such bond, within such time, the previous award shall be void. Deliveries, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein.

(d) The contracts or purchases made by council, involving an expenditure of over five hundred dollars, which shall not require advertising or bidding, as hereinbefore provided, are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light or other public works of the borough, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by council, as in other cases of work done;

(2) Those made for improvements, repairs and maintenance of any kind, made or provided by any borough, through its own employes: Provided, however, That this shall not apply to construction materials used in a street improvement;

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances,

* "busines," in original.

vehicles or parts thereof are desired by council, which are patented and manufactured products;

(4) Those involving any policies of insurance or surety company bonds; those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission; those made with another political subdivision, or a county, the Commonwealth of Pennsylvania, the Federal Government, any agency of the Commonwealth or the Federal Government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal Government or their agencies. But the price thereof shall not be in excess of that fixed by the Commonwealth, the Federal Government, or their agencies;

(5) Those involving personal or professional services.

Section 1317. Penalty for Personal Interest in Contracts.—Except as otherwise provided in this act, no borough official, either elected or appointed, who knows or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the borough, or for any work to be done for such borough involving the expenditure by the borough of more than three hundred dollars in any year, but this limitation shall not apply to cases where such officer or appointee of the borough is an employe of the person, firm or corporation to which the money is to be paid, in a capacity with no possible influence on the transaction, and in which he cannot be possibly benefited thereby, either financially or otherwise. But in the case of a councilman or burgess, if he knows that he is within the exception just mentioned, he shall so inform council and shall refrain from voting on the expenditure, or any ordinance relating thereto and shall in no manner participate therein. Any official or appointee who shall knowingly violate the provisions of this section shall be subject to surcharge to the extent of the damage shown to be thereby sustained by the borough, to ouster from office, and shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars.

Section 1318. Separate Bids for Plumbing, Heating, Ventilating and Electrical Work.—In the preparation for the erection, construction and alteration of any public building, when the entire cost of such work shall exceed one thousand dollars, the architect, engineer, or other person preparing such specifications, shall prepare separate specifications for the plumbing, heating, ventilating and electrical work. The person or persons

authorized to enter into contracts for the erection, construction or alteration of such public buildings shall receive separate bids upon each of the said branches of work and award the contract for the same to the lowest responsible bidder for each of said branches.

Section 1319. Bonds for the Protection of Labor and Materialmen.—It shall be the duty of every borough to require any person, copartnership, association, or corporation, entering into a contract with such borough for the construction, erection, installation, completion, alteration, repair of, or addition to, any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of five hundred dollars, before commencing work under such contract, to execute and deliver to such borough, in addition to any other bond which may now or hereafter be required by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association, or corporation interested, in a sum not less than fifty per centum and not more than one hundred per centum of the contract price, as such borough may prescribe, having as surety thereon one or more surety companies legally authorized to do business in this Commonwealth, conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the borough for the use of any party interested therein. Every such additional bond shall provide that every person, copartnership, association, or corporation, who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided, and who has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the borough, for his, their or its use, and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or it and have execution thereof: Provided, however, That the borough shall not be liable for the payment of any costs or expense of any suit.

Section 1320. Minimum Wage Specifications in Contracts.—The specifications upon which contracts are entered into by any borough for the construction, alteration or repair of any public work or improvement may, at the option of the borough council, contain the minimum wage or wages which may be paid by the contractor or his subcontractors for the work performed by laborers and mechanics employed on such public work or im-

provement, and such laborers and mechanics shall in such cases be paid not less than such minimum wage or wages.

Every contract for the construction, alteration or repair of any public work or improvement, founded on specifications containing any such stipulation for minimum wage or wages, shall stipulate a penalty of an amount equal to twice the difference between the minimum wage contained in said specifications, and the wage actually paid to each laborer or mechanic for each day during which he has been employed at a wage less than that prescribed in said specifications.

Every officer or person designated as an inspector of or having supervision over the work to be performed under any such contract, in order to aid in enforcing the fulfillment thereof, shall, upon observation or investigation, report to the borough council or agency which let the contract, all violations of minimum wage stipulations, together with the name of each laborer or mechanic who has been paid a wage less than that prescribed by the specifications, and the day or days of such violation.

All such penalties shall be withheld and deducted for the use of the borough from any moneys due the contractor by the officer or person whose duty it shall be to authorize the payment of moneys due such contractor, whether the violation of the minimum wage stipulation of the specifications was by the contractor or by any of his subcontractors: Provided, That if any such contractor or subcontractor subsequently pays to all laborers and mechanics the balance of the amounts stipulated in such contract, the borough shall pay to the contractor the amounts, so withheld, as penalties.

Section 1321. Discrimination Between Employes.— Every contract for, or on behalf of any borough, for the construction, alteration or repair of any public building or public work, shall contain provisions by which the contractor agrees—

(a) That, in the hiring of employes for the performance of work under this contract or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed or color discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform the work to which the employment relates;

(b) That no contractor, subcontractor, nor any person on his behalf, shall, in any manner, discriminate against or intimidate any employe hired for the per-

formance of work under his contract on account of race, creed or color;

(c) That there may be deducted, from the amount payable to the contractor under this contract, a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; and

(d) That this contract may be cancelled or terminated by the borough and all money due, or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this portion of the contract.

Section 1322. Publication of Contract Notices in Trade Journals.—Any borough whose duty it is by law to advertise for bids for public works, contracts, supplies or equipment, may, at its discretion, legally authorize the publication of such advertising, in addition, to the newspapers specified by law, also in any publication or journal devoted to the dissemination of information about construction work published at least once a week and circulating among contractors, manufacturers and dealers doing business in the community in which such public works are to be constructed or supplies or equipment purchased. No such advertisement for bids shall be inserted in any such publication or journal devoted to the dissemination of information about construction work, which has not been established and regularly issued from a printing office and publication house in this Commonwealth for a period of at least eighteen months. Such publication and journal shall be entered, or entitled to be entered, for admission to the United States mails as second class matter, and shall have a bona fide income from subscribers within the Commonwealth of Pennsylvania of not less than fifteen thousand dollars per annum, duly certified by a public accountant. The rates and charges for such advertising shall not be in excess of those of newspapers of general circulation, as defined by the Newspaper Advertising Act.

Section 1323. Acceptance by Contractor of Workmen's Compensation Act.—All contracts executed by any borough, or any officer thereof, which involve the construction or doing of any work involving the employment of labor, shall contain a provision that the contractor shall accept, insofar as the work covered by any such contract is concerned, the provisions of the Workmen's Compensation Act of 1915 and the supplements and amendments thereto, and that the said contractor

will insure his liability thereunder, or file with the borough with whom the contract is made a certificate of exemption from insurance from the Bureau of Workmen's Compensation of the Department of Labor and Industry.

Every officer of any borough who shall sign, on behalf of the borough, any contract requiring in its performance the employment of labor, shall require, before the said contract shall be signed, proof that the said contractor with whom the contract is made shall have accepted the Workmen's Compensation Act of 1915 and any supplements or amendments thereto, and proof that the said contractor has insured his liability thereunder in accordance with the terms of said act, or that the said contractor has had issued to him a certificate of exemption from insurance from the Bureau of Workmen's Compensation of the Department of Labor and Industry.

Any contract executed in violation of this section shall be null and void.

Section 1324. Architects and Engineers Employed Prohibited From Bidding on Public Works; Penalty.— It is unlawful for any architect or engineer, in the employ of any borough, and engaged in the preparation of plans, specifications or estimates, to bid on any public work at any letting of such work in this Commonwealth.

It is unlawful for the officers of any borough charged with the duty of letting any public work, to award a contract to any such architect or engineer, in the employ of the Commonwealth, or of any county, city, borough, township or other political subdivision of the Commonwealth.

It is unlawful for any architect or engineer, in the employ of the Commonwealth, or of any county, city, borough, township or other political subdivision of the Commonwealth, to be in anywise interested in any contract for public work for the borough, or receive any remuneration or gratuity from any person interested in such contract.

Any person violating any of the provisions of this section shall forfeit his office, and shall be guilty of a misdemeanor, and on conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars or to undergo imprisonment for not more than six months, or both.

Sections 1401 to 1452 of Article XIV, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 43. Sections 1401 to 1452 of Article XIV of said act are hereby reenacted, revised and amended to read as follows:

ARTICLE XIV

EMINENT DOMAIN; ASSESSMENT OF DAMAGES AND BENEFITS

(a) General Provisions Relating to Eminent Domain

Section 1401. Exercise of Eminent Domain.—In the laying out, opening, widening, extending, vacating, grading, or changing the grades or lines, of streets, [lanes, or alleys] the construction of bridges, and the piers and abutments therefor, the construction of slopes, embankments, and sewers, the erection and extension of waterworks, wharves, and docks, public buildings, public works, filtration plants, sewage systems, sewage treatment works, garbage disposal plants, gas plants, electric light plants, and libraries, the establishing of parks, [and] playgrounds, *and recreation places*, the changing of watercourses, and for all other purposes authorized by this act, a borough may enter upon, appropriate, injure, or destroy, private lands, property, or material.

Section 1402. Restrictions as to Certain Property.—In addition to the restrictions made by other provisions of this act in particular cases, no borough shall exercise *the* right of eminent domain as against land now occupied by any building which was used during the Colonial or Revolutionary period as a place of Assembly by the Council of the Colony of Pennsylvania, the Supreme Executive Council of the Commonwealth of Pennsylvania, or the Congress of the United States; or as against the land occupied by any fort, redoubt, or blockhouse, erected during the Colonial or Revolutionary period, or any building used as headquarters by the Commander-in-Chief of the Continental Army; or as against the site of any building, fort, redoubt, blockhouse, or headquarters, which are preserved for their historic associations and not for private profit. The Colonial and Revolutionary period shall be taken as ended on the third day of September, one thousand seven hundred and eighty-three.

Section 1403. Possession of Property Upon Tender of Bond.—Whenever, in any condemnation proceedings, any borough has tendered a bond to secure the payment of damages, and the same has been accepted, or, if the acceptance has been refused and the bond has been filed in and approved by the court, the borough shall have the right to immediate possession of the property.

Section 1404. Notice to Quit; Possession; Procedure.—If the owner, lessee, or occupier shall refuse to remove his personal property or give up possession, the borough may serve written notice upon such owner, lessee, or his agent, or the occupier, to remove his personal property and give up possession of such property, within sixty days from the date of the service of such notice.

If the owner, lessee, or occupier shall refuse to remove his personal property and give possession, upon proof of the service of the notice, a writ of habere facias possessionem shall forthwith issue, directing the sheriff to give to the borough possession.

Section 1405. Bond of Borough Without Surety Sufficient.—Whenever *the borough shall tender any bond, or any court shall order any borough to enter security for the payment of damages for the taking, injury, or destruction of land, property or materials by right of eminent domain, the bond of the borough shall be taken without sureties.*

Section 1406. Value of Land or Property Not to Be Assessed as Benefits; Exception.—In all cases of the appropriation of land or property for public use, other than for [roads or] streets, it shall not be lawful to assess any portion of the damage done to or value of the land or property so appropriated, against the other property adjoining or in the vicinity of the land or property so appropriated.

Section 1407. Viewers' Report.—Viewers or juries of view appointed by any court to assess damages and benefits, due to the taking, injury, or destruction of private land or property in and by the construction or enlargement of any public work, [highway] street, or improvement, shall make their reports within a time which the court shall fix when appointing them, but, if any of the viewers or juries of view shall, for any reason appearing sufficient to the court, be unable to file its report within the period so fixed, the court may, either before or after the expiration of the time fixed, extend the time for the filing of such report.

Section 1408. Plans of Lands and Properties Condemned to Be Furnished to Viewers.—In all proceedings to assess damages for the taking, injury or destruction of private land or property for public use, the borough taking, injuring, or destroying such land or property for said purpose, shall furnish the board of viewers with a correct plan of all lands and properties affected, showing all buildings or other structures thereon, their width, length, elevation, and cubical contents, names of all owners, tenants, or occupiers thereof, the topography of the land, and the grades and widths of all [highways] streets running through or abutting on said lands or properties, and all other data necessary for a proper determination of the amount of damages caused by the taking, injury or destruction of said private land and property.

Said plans shall be prepared and ready for the use of the viewers at their first meeting, and copies thereof

shall be furnished to all owners, tenants, and occupiers of the *land and* property and all other parties affected thereby, without charge.

Section 1409. Condemnation Petition to Specify Liens; Exception.—In all proceedings instituted for the condemnation and appropriation of land and property by the exercise of the right of eminent domain, excepting proceedings to ascertain damages and benefits by reason of borough street or sewer improvements, the petition for the appointment of viewers therein shall contain allegations specifying any judgments, mortgages, or other claims (hereinafter designated “liens”) which are liens upon the land and property sought to be appropriated or condemned as aforesaid.

Section 1410. Findings of Facts as to Liens.—Testimony shall be taken in said proceedings to ascertain the amounts of said liens and the dates of the entry of the same, and the amounts of said liens and the dates of entry thereof shall be found as facts by the viewers in said proceedings. Certified lists of liens, from the *Department of Revenue*, the courts of the Commonwealth and of the United States, shall be prima facie evidence of the existence, dates, amounts, dates of entry, and places of record, of said liens, and, unless modified or overcome by *competent* oral or documentary evidence, shall be conclusive upon the parties thereto as to items just specified.

Section 1411. Reports of Viewers as to Liens; Appeals; Distribution to Lien Creditors; Discharge of Liens.—Where it appears that liens exist as aforesaid, which are liens upon *land or* property sought to be condemned and appropriated as aforesaid, a report of the facts found as aforesaid shall be made to the court having jurisdiction of the proceeding, which report shall be subject to exceptions in manner to be regulated by the Supreme Court, by general rule prescribed, amended, and published from time to time; and, upon the findings in relation to said liens being finally found by said court having jurisdiction of said proceedings, said court shall make an order directing the payment and distribution of the amount found to be payable as compensation to the parties entitled thereto, first to the owners of said liens *in the order of their priority*, then to the owners of the *land or* property appropriated as aforesaid. [: Provided, however, That] *Any of* the parties interested shall have the right of appeal from said order of distribution to the Superior and Supreme Courts of the Commonwealth, as shall be determined by the amount distributed to said parties respectively, in manner now provided by law. Payment in accordance with said order of distribution shall absolutely discharge the party making said

payment from all claims of whatsoever nature by any [person, firm, corporation, or] claimant, as against said *land*, property, when the payment thereof shall be evidenced by a receipt of record in said proceedings; and, in said receipt and on the record thereof, any claimant may reserve the right to pursue the owner of said *land or property* for any balance due upon his lien against any other *land or property* or assets of the said owner.

Section 1412. Vesting Title.—Upon payment of the compensation for land or property appropriated as aforesaid, in accordance with said order of distribution, title to the land or property appropriated shall vest in the [taker thereof] *borough* in accordance with provisions of the law under which such appropriation is made, and all claims for compensation shall be deemed paid and satisfied as herein provided.

Section 1413. Competency of Evidence as to Market Value of *Land or Property*.—In all proceedings arising from the exercise of the right of eminent domain, it shall be competent for all witnesses called, when duly qualified, to state their opinion as to the market value of the *land or property* before the exercise of the right of eminent domain and as unaffected by it, and its market value immediately after the exercise of the right of eminent domain and as affected thereby;

(a) To state, in detail and [costs] *amounts* all the elements of benefit or damage which they have taken into consideration in arriving at their opinion;

(b) In arriving at their opinion as to the market value immediately after the exercise of the right of eminent domain, to add to their opinion of the market value before such exercise, the cost or value of all the elements of benefit or advantage, and to deduct therefrom all disadvantage or damage in order to arrive at the market value after such exercise of the right of eminent domain and as affected thereby.

(c) In all proceedings to assess damages or benefits for the opening of any street [alley, or other highway,] to take into consideration, as one of the elements of advantage or disadvantage, the cost of street improvements.

In all claims for damages against a borough, arising from the exercise of the right of eminent domain, it shall be competent for the party or parties claiming damages to offer in evidence, as a declaration against interest, the value of *land or property* affected as assessed for the purpose of taxation.

Section 1414. Proceedings Where Assessments by Viewers Waived.—In any proceeding to ascertain the damage caused to any owner of lands *or properties*, by reason of the appropriation of a right of way or ease-

ment by any borough, where the owner and borough cannot agree upon the amount of damage done, the parties may, by agreement, waive the right to have such damages assessed, and the owner may file his claim in the court of common pleas of the county, and rule the [defendant] *borough* to plead thereto within fifteen days from the service of such rule upon [the borough] *it*, and the suit shall be proceeded with as if an award of viewers had been filed and an appeal had been taken therefrom.

Either party to such an action may on motion have the jury visit and view the premises over or through which the proposed right of way or easement may extend.

Section 1415. Appeals in Eminent Domain Proceedings; Payment of Money into Court.—In all cases of damages assessed against any borough for *land or property* taken, injured, or destroyed by the construction or enlargement of their works, [highways] *streets*, or improvements, whether such assessment shall have been made by viewers, or otherwise than upon trial in court, [and an appeal is not provided for] an appeal may be taken by either party to the court of common pleas of the county within thirty days from the filing of the report.

Any such appeal taken shall be signed by the party taking the same or by his agent or attorney, and shall be accompanied by an affidavit of [the] *such* party [appellant] or of [the] *his* agent or attorney, that the same is not for the purpose of delay, but because the affiant firmly believes that injustice has been done.

When no such appeal is taken and judgment is entered, and the party to whom damages have been awarded refuses to accept payment of such award or judgment, then it shall be lawful for [such] *the* borough, upon petition to the court after notice as ordered by court, to pay the amount of the award and costs into the court. The court, upon such payment, shall order the satisfaction of the award or judgment.

Section 1416. Title Acquired.—In all cases where *land or property* is taken under eminent domain proceedings, other than for [highway] *street* purposes, or is acquired by gift, purchase, or otherwise, the title obtained by the borough shall be in fee simple, provided that in particular instances a different title may, by agreement, be acquired.

Section 1417. Land Transferable.—If the project or *purpose for which any *land or property* has been taken, received, or acquired shall be abandoned or found not

* "purchase," in original.

to be desirable for the best *interests of the borough, the land *or property* thus obtained may be used for other [municipal] *borough* purposes, or sold, leased, or otherwise disposed of.

(b) Procedure for the Exercise of Eminent Domain and for the Assessment of Damages and Benefits *by Viewers*

Section 1420. Petition for Viewers; Time of Meeting.—Except as [is in this act] otherwise provided *in this act*, in case the compensation for damages or benefits accruing from the exercise of the right of eminent domain [and] *or* from the erection and construction of public improvements [have] *has* not been agreed upon, [any] *the* court of common pleas, or any law judge thereof in vacation, on application thereto by petition by the borough or any person interested, shall appoint three viewers, from the board of viewers of the county, and appoint a time, not less than twenty nor more than thirty days thereafter, when the viewers shall meet [upon the line] *at the place* of the improvement and view the same and the premises affected thereby.

Section 1421. When Viewers May Be Appointed.—The viewers provided for in the preceding section may be appointed before or after the entry, appropriation, or injury of any *land or property or appropriation of any materials* for constructing such improvements.

Section 1422. Notice of Meeting of Viewers.—Except [when] *as* otherwise [in this act] provided *in this act*, the viewers shall give at least ten days' notice of the time of their first meeting, by publication in one or more newspapers of the county, and by handbills posted upon the premises, or otherwise as the court shall direct. [Where the publication is in more than one newspaper, one of the newspapers may be in the German language.]

Section 1423. Swearing Viewers; Hearings; Schedules of Damages and Benefits.—The viewers having been sworn or affirmed faithfully, justly, and impartially to decide and a true report to make concerning all matters to be submitted to them and in relation to which they are authorized to inquire, and having viewed the premises and examined the *land or property*, shall hear all parties interested and their witnesses and shall determine the damages for *land or property* taken, injured, or destroyed, *if any*, and to whom the same [is] *are* payable; and, having determined the damages, together with the benefits they shall prepare a schedule thereof.

* "Interest," in original.

Section 1424. Assessment of Damages and Benefits.

—The damages may be paid in whole or in part by the borough, or may be assessed in whole or in part upon the *land or* property benefited. In the latter case, the viewers, having first determined the damages apart from the benefits, shall assess the total cost of the improvement, or so much thereof as may be just and reasonable, upon the *lands or* properties peculiarly benefited, including in the assessment all parties for which damages have been allowed, and shall report the same to the court. The total assessments for benefits shall not exceed the total damages awarded or agreed upon.

Section 1425. Assessment Awards.—In proceedings to assess damages and benefits, if the *land or* property is both benefited and damaged by such improvements, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the [several owners] *owner of land or* property affected thereby.

Section 1426. Separate Reports of Damages and Benefits.—The [preceding section shall not prevent the] viewers [from making] *shall make* a separate report of the damages and benefits, respectively. [In such event, if] *If* the damages to the *land or* property of any person be greater than the benefits, or if the benefits be greater than the damages, or if the damages and benefits be equal, [in either case] the viewers shall strike a balance and carry the difference forward to another column, so that the assessment shall show what amount is to be received or paid by the *land or* property owner and the difference only shall be collectible of or paid to such *land or* property owner. Appeals taken from the report of the board of viewers shall be from such net amount only.

Section 1427. Notice When Schedules Will Be Exhibited.—The viewers shall give notice to all parties to whom damages are allowed, or upon whom assessments for benefits are made, of a time not less than ten days thereafter, and of place where the viewers will meet and exhibit their schedule and hear all exceptions thereto.

Section 1428. Service of Notices.—[Such] *The* notice *required by the preceding section* shall be given, in the manner provided by law for the service of a summons in a personal action, if the parties can be found in the [borough] *county in which such borough is located*; or upon an adult person residing upon the *land or* property affected by the assessment, in case the owner or reputed owner cannot be found *in said county*;

and to all others by publication in the newspaper or newspapers in which the first notices of the view were published, and by posting conspicuously on the premises. Council may by ordinance provide by whom the notice shall be served and posted and fix the compensation for such service.

Section 1429. Reports of Viewers; Plan of Improvements.—After making whatever changes are necessary, the viewers, *or a majority thereof*, shall report to the court, showing the damages and benefits allowed and assessed in each case, and file therewith a plan *to be prepared or secured by the viewers* showing the improvement, the *lands or properties*, taken, injured, or destroyed, and *the lands or properties* benefited.

Section 1430. Notice of Filing of Report.—When the report is filed, notice thereof shall immediately be given, by publication once in the *newspaper or newspapers* publishing the notice provided for in section fourteen hundred and twenty-two of this article. Such notice shall state the date of filing of the report, contain a schedule of the damages allowed and benefits assessed, and shall state that, unless exceptions [be] *are* filed thereto or an appeal to the court of common pleas is taken therefrom within thirty days from the date of filing, the report will be confirmed absolutely.

Section 1431. Borough to Pay Costs of Proceedings.—The cost of the proceedings, including court costs, except the compensation of the viewers, shall be paid by the borough.

Section 1432. Bond of Borough.—Except when [in this act] otherwise provided *in this act*, in all cases where the parties have not agreed upon the damages claimed, or where, by reason of the absence or legal incapacity of the owner, no such agreement can be made, the borough may tender sufficient security to the party entitled to damages, or to the attorney or agent of any person absent, or to the agent or officer of a corporation, or to the guardian or committee of anyone under legal incapacity.

Section 1433. Condition of Bond; Notice of Filing in Court.—The condition of the security shall be that the borough shall pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the parties or assessed in the manner provided for by this article. In case the party claiming damages [refuse] *refuses to accept* the security tendered, the borough shall give the party or his agent, attorney, guardian, or committee, a written notice of the time when the same will be presented in court.

Section 1434. Filing Bond; Recovery Thereon.—If approved by the court, the security shall be filed for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed. If the damages [be] *are* not paid, they may be collected by execution on the judgment in the issue framed to try the question. Upon the approval of the security, the borough may proceed with the improvement.

Section 1435. Exceptions to Report of Viewers.—Within thirty days after the filing of any report, any party interested may file exceptions to the same; and the court shall confirm, modify, or change the same, or change the assessments made therein, or refer it back to the same or new viewers.

Section 1436. Confirmation of Report of Viewers.—When the report is filed, the prothonotary shall mark it confirmed nisi. In case no exceptions are filed thereto, *or no appeal taken therefrom*, he shall enter a decree that the report is confirmed absolutely.

Section 1437. Effect of Exceptions on Confirmation of Report.—When exceptions are filed which affect the entire report, the same shall not be confirmed absolutely as to any part thereof until the exceptions have been finally disposed of; when the exceptions do not affect the entire report, the court shall confirm the assessments to which exceptions have not been taken.

Section 1438. Appeals from Confirmations After Exceptions.—Within three months after the confirmation of any report, following the filing of exceptions thereto, any party interested may appeal from the decree of the court below to the Superior or Supreme Court, as the case may be.

Section 1439. Effect of Appeals.—When any appeal is taken from the action of the court of *common pleas* confirming any viewers' report or part thereof, if the appeal affects the entire report, it shall have the effect of suspending the absolute confirmation thereof until the appeal is finally disposed of; but where the appeal is to matters which do not affect the entire report, or any other assessment, such appeal shall affect only the particular assessment for which the appeal is taken.

Section 1440. Filing Assignments of Error, Et Cetera.—In order to determine whether any appeal affects the entire report, or any particular assessment, the appellant shall file in the court below, before or at the time of filing his writ of certiorari, a copy of his [specifications or] assignments of error or *statement of the grounds of appeal*. Upon failure so to do, the borough or any party interested may, by notice or rule

upon the appellant, cause such [specifications,] assignments of error, or *statement of the grounds* of appeal to be filed.

Section 1441. Certificate of Judge of the Court Below.—Upon the request of the borough, or any party interested, the court below, or any judge thereof in vacation, shall certify whether the appeal affects the entire report, and said certificate shall be conclusive. Where the court or judge certifies that the appeal will affect the entire report, no further proceedings shall be taken in the court below until after the final action of the appellate court; but where the court or judge certifies that the appeal will affect only a particular assessment, then the confirmation of all other assessments shall be final.

Section 1442. Effect of Affirmation of Decree of Court Below.—If, on any appeal, the action of the court below is affirmed, the date of the decree or judgment of the appellate court shall be taken as the day on which the report was finally confirmed.

Section 1443. Consolidation of Appeals.—Where any appeal is taken to the Supreme Court, and an appeal is also taken to the Superior Court, and the appeals in both cases are substantially the same, the Superior Court may certify such appeal to the Supreme Court to be heard with the other appeals from the same report.

The Supreme Court shall consolidate all such appeals and hear them as one case. Where several appeals are taken from the confirmation of the same report, either to the Superior or Supreme Court, and the grounds of appeal are similar, the appellate court may consolidate the appeals.

Section 1444. Appellants May Unite in Appeals; Effect Thereof.—Several parties may unite in a single appeal, either to the Superior or Supreme Court, where the grounds of appeal are similar, but the uniting of the appellants shall not unite the amounts or change the jurisdiction. When the appeal, if taken by each appellant singly, would be to the Superior Court, then the appeal shall be to that court; but, if the appeal of any one appellant would be to the Supreme Court, then the joint appeal shall be to that court. If an appeal has been taken to the Supreme Court, any other party, without regard to the amount involved, if the grounds of appeal are similar, may appeal to the same court and join in such appeal.

Section 1445. Appeals from Reports of Viewers for Jury Trial.—Within thirty days after any report of viewers is filed in court of *common pleas*, any party

whose *land or* property is taken, injured, or destroyed, or [who is assessed benefits, to pay for property taken, injured, or destroyed] *against whom benefits are assessed*, may appeal to the court of common pleas and demand a trial by jury. Several parties may unite in a single appeal, and where the grounds of appeal are similar the court may hear such appeals as one proceeding; but each party shall, in any event, be entitled to demand a separate trial by jury. Where an appeal is so taken as a portion of the report, the portion not *appealed from shall be confirmed absolutely, at the expiration of thirty days after the report is filed in court.

Section 1446. Reasons for Appeals to Be Stated.—The *appeal as provided in the last preceding section, shall state the grounds upon which it is taken, and shall be signed by the appellant, or by his agent or attorney; and shall be accompanied by an affidavit that it is not taken for the purpose of delay but because the appellant believes that injustice has been done.

Section 1447. Costs.—Upon the trial of any such appeal, in case the party appellant does not obtain a verdict more favorable than was the report of the viewers, [as finally confirmed] the appellant shall not recover any costs.

Section 1448. Notices; Appeals from the Court Below.—The court of common pleas shall order what notices shall be given in connection with such proceedings, and may, by rule or otherwise, prescribe the form of pleadings. After verdict and final judgment, either party may, within three months, appeal to the Superior or Supreme Court.

Section 1449. Appeals to the Wrong Court.—Should any appeal [under this article] *to the Supreme or Superior Court* be made to the wrong court, such court shall certify the appeal to the court to which it should have been taken.

Section 1450. Appeals Not to Prevent Filing Liens.—No appeal [taken under this article] *to any court* shall prevent the filing of liens by any borough for any assessment made by any such report, but, upon the final termination of the issue, the court shall make such order as to the lien filed as shall appear right and proper.

Section 1451. Discontinuance of Proceedings.—If any borough shall repeal any ordinance, or discontinue any proceeding, providing for any of the improvements mentioned in this article, prior to the entry upon, taking, or injury to any *land or* property or *appropriation of materials*, the borough shall not be liable to pay any damages which have been assessed, but all costs upon

* "lines 4 and 7," transposed in original.

any such proceeding shall be paid by the borough, together with any actual damage sustained by reason of such proceeding.

Section 1452. Assessments to Bear Interest.—All assessments for benefits, costs, and expenses shall bear interest at *six per centum per annum* from the expiration of thirty days after they shall have been finally ascertained, and shall be payable to the treasurer of the borough.

Act of May 4,
1927 P. L. 519,
amended by add-
ing section 1453.

Section 44. Said act of May 4, 1927 (Pamphlet Laws 519) is hereby amended by adding thereto section 1453 to read as follows:

Section 1453. Damages to Bear Interest.—The amount of damages allowed in a report of viewers for the taking, injury or destruction of property by the exercise of the right of eminent domain shall, as finally confirmed, bear interest at the rate of six per centum per annum from the date of the filing of the report.

Sections 1501 to
1505, act of May
4, 1927 P. L.
519, reenacted,
revised and
amended.

Section 45. Sections 1501 to 1505 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XV

DAMAGES FOR INJURY TO PROPERTY

Section 1501. Right to Damage Given in Certain Cases.—The right to damages against boroughs is given to all owners or tenants of lands, property, or material, abutting on, or through which pass, [roads,] streets, [lanes, or alleys] injured by the laying out, opening, widening, vacating, extending, or grading of such [roads,] streets, [lanes, or alleys] or the changing of the grades or lines thereof; the construction and the vacation of bridges and piers, abutments and approaches therefor, and the construction of sewers over, upon, or through such lands or property.

Section 1502. Juries of View to Assess Damages and Benefits.—All juries of view for assessing damages or benefits for taking, using, occupying, or injuring land, property, or material, are directed to assess the damages, provided for in the preceding section, against boroughs, and the benefits in connection therewith, and make a report thereof to the court.

Section 1503. Appeals from Viewers' Reports.—The right of appeal to the court of common pleas, the right of trial by jury, and the right to file exceptions are given to any party not satisfied with such report.

Section 1504. Appeals from Court Below.—After disposal of exceptions, or after verdict and final judgment, any interested party may appeal to the Superior or Supreme Court, as in other cases.

Section 1505. Damages for Vacations.—Whenever viewers are appointed to vacate any [road, streets, or *highway] *street*, and the vacation of the same takes no land from the owner abutting thereon, if, in the opinion of the viewers, such vacation damages the property of the abutting **owner, they may award damages to such owner as though land has been actually taken, and such damages shall be ascertained as provided in article fourteen (b) of this act.

Section 46. Sections 1601 to 1627 inclusive of said act of May 4, 1927 (Pamphlet Laws ***519) are hereby reenacted, revised and amended to read as follows:

Sections 1601 to 1627, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE XVI

[LOCATING] LAYING OUT, OPENING, WIDENING, EXTENDING, STRAIGHTENING, AND VACATING STREETS

(a) Surveying, Laying Out, Opening, Widening, Straightening, Extending, and Vacating Streets, Et Cetera, Without Petition

Section 1601. Proceedings Without Petition of Property Owners.—Boroughs may survey, lay out, open, widen, straighten, extend or vacate streets, [lanes, alleys, and courts] or parts thereof, without petition of property owners.

Section 1602. Notice of Improvement.—Ten days' notice of the contemplated improvement shall be given by [the borough, by not less than ten] handbills posted on the line of the proposed improvement, and in such notice shall be designated a time and place where objections thereto shall be heard.

Section 1603. Ordinances.—Any ordinance authorizing the exercise of any power conferred by section sixteen hundred and one of this article shall be adopted by the affirmative vote of [three-fourths] *at least two-thirds* of the whole number of councilmen, and shall be approved by the burgess. No such ordinance shall be finally adopted until the expiration of twenty-eight days from the date of its introduction, and, in the meantime, copies thereof shall be published in one or more of the newspapers of the borough, once a week for three consecutive weeks, immediately following the introduction thereof. In case no newspaper shall be published in the borough, then *publication shall be* in one newspaper [published in the county] *circulating in the borough*.

* "highways," in original.

** "owners," in original.

*** "529," in original.

Section 1604. Erection of Improvements.—No owner or occupier of lands, buildings, or other improvement shall erect any buildings or make any improvements within the lines of the [roads,] streets, [lanes, alleys, or courts] laid out, widened, or straightened, or proposed to be laid out, widened, or straightened, after notice thereof. If any such erection or improvement shall be made, no allowance shall be had therefor in the assessment of damages.

Section 1605. Procedure to Assess Damages and Benefits.—If the borough or any person interested desires to have viewers appointed to ascertain damages or benefits, they shall be appointed, damages awarded, and benefits assessed, as provided in article fourteen in the case of property taken, injured or destroyed. Any costs and expenses, which cannot be assessed upon property benefited, shall be paid by the borough.

Section 1606. Grade Damages to be Included.—In all cases of assessment of damages for the opening or widening of any street [or highway] in any borough, the award of damages, if any, shall include all damages due to the grade at which said street [or highway] is to be opened or widened; and the plan attached to the report of the viewers awarding the damages shall have therein a profile plan showing the existing grade as well as the grade to which said street [or highway] is to be opened and widened.

Section 1607. Streets Declared Public Highways.—Any street, [lane, or alley] so opened or opened *by the borough* by agreement of parties, is a public [highway] street.

(b) Opening, Widening, Straightening, Extending,
and Vacating Streets, Et Cetera, on
Petition to [the] Council.

Section 1610. Proceedings on Petition of Property Owners.—Boroughs may, upon petition, open, widen, straighten, and extend [roads,] streets, [and alleys,] or [parts] *portions* thereof, and may, upon petition, vacate [roads,] streets [and alleys,] or portions thereof, (other than State [and State-aid] highways) whether laid out by the borough or by proceedings in the courts of quarter sessions or otherwise.

Section 1611. Signing Petition.—The petition shall be signed by a majority, in number and interest, of the owners of property abutting on the line of the proposed improvement, as fixed at the time of its presentation, and shall be verified by the affidavit of one or more of the petitioners. Petitions for the vacation of [roads,] streets, [and alleys,] or portions thereof, may release

the borough from all damages due to such vacation, if the petition is signed by the owners of all the property abutting on the [road,] street, [or alley,] or portion thereof, to be vacated. The majority in interest of owners of undivided interests in any piece of property shall be deemed as one person for the purposes of the petition.

Section 1612. Notice of Ordinance and Petition; Appeal.—Upon the approval of any ordinance passed pursuant to said petition, notice shall, within ten days, be given by handbills posted [in conspicuous places] along the line of the proposed improvement. The notice shall state the fact of the passage of the ordinance, and the date thereof, that the petition for the improvement was signed by a majority in interest and number of the owners of property abutting the line of proposed improvement, or in the case of a vacation proceeding, where there is a release of damages, that it was signed by the owners of all the property abutting the [road,] street, [or alley,] or portion thereof, to be vacated, and that any person interested, denying the fact such petition was so signed, may appeal to the court of common pleas of the county within thirty days after the passage thereof.

Section 1613. Appeal from Ordinance.—Any person interested may, within thirty days from the passage of the ordinance, present a petition to the court of common pleas of the county, whereupon the court shall determine whether such improvement was petitioned for by the requisite majority, or, where the proceeding is for the vacation of a [road,] street, [or alley,] or portion thereof, and the petition contains a release of damages, whether such petition was signed by the owners of all the property abutting on the [road,] street, [or alley,] or portion thereof, to be vacated. If said court shall find that it was not so petitioned for, it shall quash the ordinance, otherwise it shall approve the same.

Section 1614. Effect of Failure to Appeal.—If no appeal [shall be] *is* taken, or if the court on appeal shall approve the ordinance, the borough may proceed with the improvement. Thereafter all parties interested shall be estopped from denying the fact that the petition was signed by the requisite number of the property owners as required by section sixteen hundred and eleven of this article.

Section 1615. Assessment of Damages and Benefits.—Viewers shall be appointed, damages awarded, and benefits assessed as provided in article fourteen of this act, in the case of property taken, injured or destroyed: Provided, That in proceedings to vacate a [road,] street, [or alley,] where the owners of all the property abut-

ting upon such vacated [road,] street, [or alley,] or portion thereof vacated, shall petition council for such vacation and release the borough from all damages, no such proceedings shall be had. In all cases of the assessment of damages for the opening or widening of any street, [or highway,] the award of damages, if any, shall include all damages due to the grade at which said street [or highway] is to be opened or widened, and the plan attached to the report of the viewers awarding the damages shall have therein a profile plan showing the existing grade, as well as the grade to which said street [or highway] is to be opened and widened. Any costs and expenses which cannot be assessed upon property benefited shall be paid by the borough.

(c) Opening, Widening, and Straightening
Roads Partly Within a Borough

Section 1620. Proceedings Where [Roads] *Streets* Partly in Borough.—[In opening, widening, and straightening roads partly within a borough, like proceedings shall be had as for the laying out and opening of public roads under the general road laws of the Commonwealth.] *All streets partly within a borough, where one of the termini of such street is without the borough, shall be laid out, widened, changed or vacated only by the court of quarter sessions in the manner provided by the general road law and the amendments, additions and supplements thereto.*

Section 1621. [Juries of View to Have Reference to Town Plot.—Every jury appointed to view, lay out, widen or vacate any road, or part of a road, in any borough so laid out, shall have reference to the town plot and to the general arrangement, convenience, and advantage of the borough, and shall set forth the facts fully in their report.] *Consent of Borough Council Required.—No such street shall be opened, changed, widened, altered or vacated unless and until the council of the borough shall have passed a resolution consenting thereto and shall have filed a certified copy thereof with the clerk of the court of quarter sessions.*

Section 1622. [Payment of Damages.—All damage assessed, beyond the value of the land appropriated to public use, shall be paid by the borough, and the jury shall separately assess the same.] *Damages and Benefits.—All damages and benefits occasioned by any proceeding under section 1620 of this act shall be assessed, collected and paid in the manner provided by the general road law but the damages not assessed as benefits shall, as to the part of the street in the borough, be paid by the borough.*

Section 1623. Petitions for Assessment of Damages.—Petitions for the assessment of damages for the opening or widening of any *such* road, [or highway,] when the damages are not assessed by the view opening the road, may be filed in the court of quarter sessions, within the period of six years from the confirmation of any report or the entry of any decree opening such road [or highway]. All claims shall be barred after the expiration of the period of six years.

Section 1624. Improvements Erected Within Lines Laid Out.—No owner or occupier of lands, buildings, or improvements shall erect any building, or make any improvements, within the lines of [the] *such* roads laid out, widened or straightened, or proposed to be laid out, widened or straightened, after notice thereof, and, if any such erection or improvement shall be made, no allowance shall be had therefor in the assessment of damages.

Section 1625. Alteration of Roads by Agreement.—Whenever the authorities of any borough deem it advisable to construct or change [any] *that* part of any public road, *partly within the borough which is* under their supervision, and can agree with the property owners affected as to the damages, upon the payment of the damages agreed upon, the borough may change or alter such public road without the formality of a view.

Section 1626. Petitions for Change of Road.—Before any change is made in any such road, a petition setting forth the facts, accompanied by a map, shall be presented to the court of quarter sessions, and, if approved by the court, the new location shall be taken to be the public road and the old location shall be deemed vacated.

Section 1627. Limitation of Cost of Change.—The authority conferred in section one thousand six hundred and twenty-five of this article shall not extend to any change, the costs and expenses of which, to the borough, including damages, shall exceed [three] *five* hundred dollars.

(d) Time Within Which Streets are to Be Opened

Section 1630. When Roads to Be Opened.—Whenever any borough shall pass an ordinance authorizing the laying out or surveying of any [road,] street [lane, alley, or court] over any private property, the proceedings to open the same, and to assess the damages arising therefrom, shall be had not later than two years from the passage thereof.

If no such proceedings shall have been had concerning any street within such two year period, the owner

of any lands over which such street, or any part thereof, shall have been or shall be thereafter again laid out may, at any time, proceed to have the damages assessed [therefor] *in the manner provided by article fourteen of this act* with the same effect as though the street had been actually opened on the date of the institution of such proceeding.

Section 1631. When Roads Not to Be Opened.—Whenever any street [lane, or alley] shall be laid out by any person, and has not been opened to, or used by, the public for twenty-one years, such streets [lanes, or alleys] shall not thereafter be opened without the consent of the owners of the land on which the same has been so laid out.

Subdivision (e), Article XVI and sections 1640 and 1641, act of May 4, 1927 P. L. 519, repealed.

Subdivisions (f) and (g) of Article XVI relettered to become subdivisions (e) and (f) and sections 1650 to 1669, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 47. Subdivision (e) of Article XVI and sections 1640 and 1641 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 48. Subdivisions (f) and (g) of Article XVI are relettered to become subdivisions (e) and (f) and sections 1650 to 1669 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

[(f)] (e) Vacation of [Lanes and Alleys] *Streets*
Declared Nuisances [by Board of Health]

Section 1650. Petitions to Vacate Nuisances.—Whenever the [board of health] *council* of the borough shall declare as a nuisance any [public alley, lane] *street* or passageway, any two or more owners of property adjacent or abutting upon the same may present their petition, verified by oath or affirmation, to the court of quarter sessions, setting forth the facts regarding such nuisance and praying that said [alley, lane] *street* or passageway may be vacated. Such petition shall be accompanied by a certificate [of the board of health] *of the borough secretary*, setting forth that [they have] *the council has* declared such [alley, lane] *street* or passageway to be a public nuisance.

Section 1651. Jury of View.—The court shall thereupon appoint a jury of view [of three men of the county]. The jury, being sworn or affirmed to faithfully perform its duties, shall give notice to all parties likely to be affected by the proceedings, of the time and place of the first meeting, in such manner as the court shall direct.

Section 1652. Hearings and Report.—After the first meeting, the jury shall proceed to view the premises, hear all parties interested and their witnesses, and shall prepare a report of finding and recommendations as

to whether or not such [alley, lane] *street* or *passageway*, or part thereof, should be vacated; and in such report shall award damages and assess benefits to the property affected.

Section 1653. Notice of Filing Report.—The jury shall give notice, in writing, to all parties affected by their report, at least ten days before the same is filed in court. The notice shall state the time and place where such report will be open to inspection.

Section 1654. Exceptions to Report.—Any person aggrieved by such report may file exceptions thereto with the jury, whereupon the jury shall reconsider their report, with the exceptions, and change the same as [justice] *justice* may require. The report as finally prepared shall be filed in court.

Section 1655. Appeals from Report.—Any person affected by the report shall have an appeal to the court of common pleas, within thirty days after the report is filed, and the procedure on such appeal shall be the same as in actions of trespass.

Section 1656. Confirmation of Report.—At the end of the period allowed for an appeal, the report shall be absolutely confirmed by the court as to such awards or assessments from which no appeals have been taken.

Section 1657. When Vacation Proceedings Not to Be Had.—No [alley, lane] *street* or *passageway* shall be vacated in any case where the vacating deprives any lot abutting thereon of the sole means of ingress or egress, otherwise than to or from the front line thereof; nor where it was created by grant or contract and not theretofore accepted by the public.

[(g)] (f) Plans and Location of Streets

Section 1660. General Plan of Streets.—Every borough shall have a general plan of its streets, [and alleys] including those which have been laid out but not opened.

Section 1661. Filing Plans; Subdivisions.—The plan shall be filed in the office of the engineer, or other proper office of the borough, and all subdivisions of property thereafter made shall conform thereto.

Section 1662. Alterations; Maps and Plots to be Approved.—The location of streets [or alleys] laid out by council shall not afterwards be altered without the consent of council; and no map or plot of streets [or alleys] shall be entered in any public office of the county until approved by council.

Section 1663. Location of Streets.—Boroughs may, by ordinance, locate streets [and alleys] and include

therein streets [and alleys] theretofore opened or used for highway purposes; and may locate streets [or alleys] theretofore opened or used for highway purposes of a greater width; and may revise the lines of such streets [or alleys] in accordance therewith, and place the same on the general plan of such borough. All subdivisions of property thereafter made shall conform thereto.

Section 1664. Locations Not to Authorize Entry.—No such location shall authorize the entry upon or appropriation of any property, within such located street, [or alley,] not theretofore opened or used for highway purposes, *nor shall the same interfere in any way with the rights of the owners to the full use of such property.

Section 1665. No Damages Allowed for Erections Upon Located Streets.—No person shall recover any damages for the taking for public use of any buildings or improvements constructed within the lines of any located street, [or alley] after the same shall have been so located; and any such building or improvement shall be removed at the expense of the owner.

Section 1666. *Streets Not to be Opened, Etc., Without Approval of Council.*—No person shall construct, open or dedicate any [road,] street, [lane or alley] or any drainage facilities in connection therewith, for public use or travel in any borough, without first submitting suitable plans thereof to the [borough] council for its approval. Such plans shall be prepared in accordance with such rules and regulations as may be prescribed by the [borough] council, and shall show the profiles of such [roads,] streets, [lanes or alleys] the course, structure and capacity of any drainage facilities, and the method of drainage of the adjacent or contiguous territory, and also any other or further details that may be required under the rules or regulations adopted by the [borough] council. Before acting upon any such plans, the council may, **at its discretion, arrange for a public hearing after giving such notice as it may deem desirable in each case. The council is authorized to alter such plans, and to specify any changes or modifications of any kinds, which it [in its discretion,] may deem necessary with respect thereto, and may make its approval of such plans subject to any such alterations, changes or modifications. Any plans, when so approved, shall be signed on behalf of the borough by such officer as the council may designate, and shall be filed in the office of the borough engineer, or other proper officer, where the same shall be available to public inspection. No [road,] street, [lane or alley] or any drainage facilities in connection therewith, shall be opened, con-

* "not," in original.

** "is," in original.

structed or dedicated for public use or travel, except in strict accordance with plans so approved by the council, or with further plans subsequently approved by it in the same manner.

Section 1667. *Appeal From Refusal of Council.*—In any case where the borough council shall refuse to approve any plans submitted to it, [in accordance with this section,] any person aggrieved by the action of such council may, within thirty days after such action, appeal from such action, by petition to the court of quarter sessions of the county, which court shall hear the matter de novo, and, after hearing, may enter decree affirming, reversing or modifying the action of the council as may appear just in the premises. The court shall designate the manner in which notice of the hearing of any such appeal shall be given to all parties interested. The decision of the court shall be final.

The action of the borough council, or the court on appeal, in approving any such plan, and such approved plan, shall be recorded by the person applying for such approval in the office of the recorder of deeds in the county.

Section 1668. *Streets Opened Without Approval; Penalty.*—If any [road,] street, [lane or alley] or any drainage facilities in connection therewith, shall be opened, constructed or dedicated for public use or travel, except in strict accordance with plans approved by the council, *or the court on appeal*, as provided in [section one thousand six hundred sixty-six hereof] *this subdivision*, neither the borough council nor any public authorities shall place, construct or operate any sewer, drain, water pipe or other facilities, or do any work of any kind in or upon such [road,] street; [lane or alley] and neither the borough council nor any other public authorities shall have any responsibility of any kind with respect to any such [road,] street, [lane, alley] or drainage facilities, notwithstanding any use of the same by the public: Provided, however, That nothing herein contained shall prevent the laying of trunk sewers, drains, water or gas mains, if required by engineering necessity for the accommodation of other territory.

Any person who shall construct, open or dedicate any street or any drainage facilities in connection therewith, for public use or travel in any borough, without having first complied with the provisions of section one thousand six hundred sixty-six and one thousand six hundred sixty-seven of this act, or of any borough ordinance adopted pursuant thereto, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars, or suffer imprisonment not exceeding two years, or both,

in the discretion of the court. Nothing herein contained shall be construed to apply to the Department of Highways of the Commonwealth.

Section 1669. *Entry on Land to Maintain Marks and Monuments.*—The borough council, its representatives and workmen may enter upon any land and property, and maintain marks and monuments, so far as the council may deem necessary, in carrying out their powers and duties hereunder.

[Any person who shall construct, open or dedicate any road, street, lane or alley, or any drainage facilities in connection therewith, for public use or travel in any borough, without having first complied with the provisions of this act, and of any ordinances of such borough adopted pursuant hereto, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to suffer imprisonment not exceeding two years, or to pay a fine not exceeding one thousand dollars, or both, in the discretion of the court.

Nothing herein contained shall be held to restrict or limit the Department of Highways of the Commonwealth or any county in the exercise of any of its duties, powers and functions under the provisions of any act of Assembly now in force or hereafter to be enacted.]

Subdivision (h), Article XVI and sections 1670 and 1671, act of May 4, 1927 P. L. 519, repealed.

Section 49. Subdivision (h) of Article XVI and sections 1670 and 1671 of said act of May 4, 1927 (Pamphlet laws 519) be and the same are hereby repealed.

Subdivisions (a) and (b), Article XVII and sections 1701 to 1703 and 1705 to 1709, act of May 4, 1927 P. L. 519, repealed.

Section 50. Subdivisions (a) and (b) of Article XVII and sections 1701, 1702, 1703, 1705, 1706, 1707, 1708 and 1709 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Subdivisions (c), (d), (e) and (f) of Article XVII relettered to (a), (b), (c) and (d) and sections 1712 to 1714 and 1725 to 1727, 1730, 1735, 1740, 1745, 1750, 1755 to 1758, re-enacted, revised and amended.

Section 51. Subdivisions (c), (d), (e) and (f) of Article XVII are relettered to subdivisions (a), (b), (c) and (d) and sections 1712, 1713, 1714, 1725, 1726, 1727, 1730, 1735, 1740, 1745, 1750, 1755, 1756, 1757 and 1758 are hereby reenacted, revised and amended to read as follows:

ARTICLE XVII

STREET IMPROVEMENT

[(c)] (a) Grading, Curbing, Paving or Macadamizing Streets and Collection of Cost by Foot-Front Rule

Section 1712. Proceedings With or Without Petition.—Boroughs, with petition or without petition, may grade, curb, gutter, pave, macadamize, or otherwise improve, streets [lanes, and alleys] or parts or a particular width or additional widths, thereof, with or without the assistance or contribution of the State, county, or a corporation occupying the thoroughfare, and, where

the petition for the improvement is signed by petitioners representing a majority in the number of feet of assessable properties abutting on the proposed improvement, may assess and collect the whole cost thereof, or the whole cost not thus aided or contributed, or any part thereof, from the owners of real estate abutting on the improvement, by an equal assessment on the foot-front, including the expenses of the necessary drainage, but, in all other cases, not more than two-thirds of the whole cost thereof, or two-thirds of the whole cost not thus aided or contributed may be assessed and collected from the abutting owners on the foot-front rule, the remainder to be paid by the borough. The council may make equitable adjustments for corner lots, or lots of irregular shape, where an assessment for full frontage would be unjust. Property not otherwise assessable shall become assessable by the petition of the owner or the owner's representative. In all cases where the whole width of the highway is being paved, without State or county aid, and more than two-thirds of the total cost is proposed to be assessed on abutters, the borough shall, for this purpose, be considered as owner of non-assessable property, of street [and alley] intersections, and of the deducted frontage on equitable adjustments. On petition of owners representing two-thirds of the number of feet of assessable properties abutting on the proposed improvement, the total cost of the improvement, or a lesser amount if the borough desires, may be assessed on the assessable properties abutting, without any deduction for non-assessable property, or street and alley intersections, or for the equitable adjustments aforesaid, [Provided, That] *if the petition states that the total cost may be assessed on the abutters: Provided, however, That if in connection with such proceedings any street or sidewalk is so graded or changed in grade that private property is damaged thereby, and the damages have not been released or agreed upon, then the damages shall be awarded and benefits, costs and expenses in connection with the improvement shall be assessed as provided in article fourteen in the case of property taken, injured or destroyed.*

Section 1713. Notices of Assessments.—The secretary of the borough shall cause thirty days' notice of the assessment to be given to each party assessed, either by service on the owner or his agent, or left on the assessed premises.

Section 1714. Collection of Assessments.—If any assessment shall remain unpaid at the expiration of the notice, it shall be the duty of the borough solicitor to collect the same, with interest from the time of completion of the improvement, by action of assumpsit, or by

a lien to be filed and collected in the same manner as municipal claims. When an owner has two or more lots, against which there is an assessment for the same improvement, all of such lots may be embraced in one claim.

[(d)] (b) Grading, Curbing, Paving, Macadamizing,
Boundary Streets and Streets Outside Limits

1. By Agreement with Municipalities and Townships:

Section 1725. Agreements to Improve Boundary Streets.—Boroughs may enter into agreements with adjoining municipalities and townships for the grading, curbing, paving or macadamizing of streets [and alleys] which may be boundaries between such boroughs and municipalities or townships, and may provide in such contract that the damages, costs, and expenses of such improvement shall be divided between such boroughs, municipalities or townships in the proportion agreed upon.

Section 1726. Petition of Property Owners.—In grading, curbing, paving, or macadamizing such streets, [or alleys] boroughs shall exercise such power, only upon petition of a majority of the property owners in interest and number abutting the line of the proposed improvement within the borough limits, to be verified by the affidavit of at least one of the petitioners, a majority in interest of owners of undivided interests in any piece of property to be treated as one person, asking that such improvement be made.

Section 1727. Assessment of Damages and Benefits.—The portion of the damages, costs, and expenses agreed to be paid by the borough, shall be ascertained and the benefits incident thereto shall be assessed and collected in the manner provided in article fourteen of this act; but the borough may agree to pay any part of the costs, damages, and expenses of such improvements out of the general funds.

2. By Agreement with Counties and Townships:

Section 1730. Proceedings to Improve Boundary [Roads] *Streets*.—Whenever the center line of any [highway] *street* constitutes the dividing line between any borough and a township located in the same county, [and] the borough [shall] *may* enter into a contract with the commissioners of the county and the commissioners or road supervisors of the township, *as the case may be*, to grade, curb, pave, or macadamize such [highway] *street*. [in accordance with the provisions of the act of the twentieth day of May, one thousand nine hun-

dred and thirteen, page two hundred and sixty-seven, entitled "An act, providing a method whereby highways, the center line of which constitutes a dividing line between a city or borough and a township in the same county, may be altered or improved and the cost thereof apportioned," or any amendments thereto, such] *Such* alteration or improvement shall be constructed and subsequent repairs shall be made under the supervision of the authorities of the borough, and in compliance with the plans to be agreed upon, in writing, between such borough and the commissioners of the county and the commissioners or road supervisors of the township. One-half of the cost of such repairs shall be borne by the borough.

3. Streets More Than One-half the Width of Which are Within the Borough:

Section 1735. Whenever any street, [alley, or highway] more than one-half the width of which is within the limits of any borough, shall divide the said borough from any other municipality or township, located within the same county, such street [, alley, or highway] may be improved by the borough within which the greater width is located, in the same manner as if the said street [, alley, or highway] were entirely located within the limits of said borough.

The property abutting on the side of said street, [alley, or highway] which is located outside the limits of the borough making such improvements, shall, for a depth of one hundred and fifty feet, plus one-half the width of said street, [alley, or highway,] from its center line, be assessed for any and all municipal improvements to or on the said street, [alley, or highway,] in the same manner as such property would be assessed under the laws of the Commonwealth if it were entirely located within the limits of such borough.

4. Assessment on Property Outside Limits Where Boundary Line Street Entirely Within Borough:

Section 1740. Wherever any street, [or alley] entirely within the limits of any borough, shall divide such borough from any other municipality or township, located in the same county, the property on the side of the street [or alley] opposite the line of the borough, shall, for the depth of one hundred and fifty feet, be assessed for municipal improvements on such streets [or alleys] on which such property shall abut, in the manner provided by this article for assessments by the foot-front rule; and such improvements may be made, assessed, and collected in accordance with the provisions of this article for assessments by the foot-front rule.

5. Streets Outside Limits:

Section 1745. Appropriations to Improve Connecting Links.—Boroughs may, singly, or jointly with boroughs, cities, or counties, appropriate and expend moneys for the improvement of [highways] *streets* outside of the limits of such boroughs, for the purpose of connecting improved streets in such boroughs with State [or State-aid] highways. No such [highways] *streets* shall be improved which shall be more than one mile in length.

Whenever the comfort and safety of the residents of adjoining boroughs will be enhanced by any overhead or underground passageways connecting with adjoining [public highways] *streets* in either borough and extending to any plant or place of business where residents of such boroughs are [empowered] *employed*, such boroughs may jointly construct and maintain any such passageway or they may join with other *[interest] *interests* in the construction and [/or] maintenance thereof.

[(e)] (c) Maintenance and Improvement of
Condemned and Abandoned Turnpikes

Section 1750. When any turnpike, or part thereof, situate in the same or more than one county, shall be condemned for public use, free of tolls, and the assessment of damages therefor shall have been paid by the county; or when any turnpike company or association has abandoned its turnpike, or any part thereof, or when any turnpike company or association has been dissolved, such turnpike, or part thereof, located within the limits of any borough, shall be maintained and improved in the same manner as other streets of the borough.

[(f)] (d) Maintenance and Improvement of Streets
Connecting County Roads

Section 1755. Maintenance of Roads Improved by Counties.—Whenever any county shall improve any [road] *street* located within any borough, under the provisions of an act, approved the thirteenth day of May, one thousand nine hundred and nine, page five hundred and twenty-seven, entitled “An act amending an act, approved the twenty-second day of April, Anno Domini nineteen hundred and five, entitled ‘An act to amend an act, entitled “An act providing for the permanent improvement of certain public roads or highways in the several counties of this Commonwealth, making such improved roads and highways county roads; authorizing the relocation, opening, straightening, widening, extension, and alteration of the same and the vacation of so much of any such road as may thereby become unneces-

* “[interest],” omitted in original.

sary; authorizing the taking of property for such improvement and providing for the compensation therefor and the damage resulting from such taking; providing for the payment of the costs and expenses incurred in making such improvements, and in thereafter repairing and maintaining said road, and authorizing the levy of a tax to provide a fund for such purposes," approved June twenty-sixth, one thousand eight hundred and ninety-five; providing that public roads and highways may be constructed, improved, and maintained by the several counties of the Commonwealth as county roads, whether existing by other authority or laid out in whole or in part by virtue of this act; and providing that public roads and highways may be originally located, laid out, and established for the purpose of such construction, improvement, and maintenance by the several counties, in the manner and by the procedure set out in the amended act, and subject to other provisions thereof; providing for the laying out of a system of main thoroughfares, to which the establishing, construction, improvement, and maintenance of public roads by the counties shall be restricted after January one, one thousand nine hundred and seven; but providing for such establishing, construction, improvement, and maintenance of roads not part of said system, upon parties interested paying not less than one-fourth of the original cost of construction; and providing that the county commissioners of any county may provide rules regulating the use of roads constructed and maintained by the counties; and prescribing the penalties for the violation thereof,' and providing that public roads and highways located, established, constructed, and improved by the several counties, in the manner and by the procedure set out in the said acts, shall thereafter be township or borough roads, and be maintained and improved by the proper township or borough," or any amendments thereto, such road shall, by ordinance enacted by the borough council, become a borough [road] *street*, and the duty of maintaining the same in repair shall devolve upon the borough in which such road lies.

Section 1756. Agreements to Improve Connecting Links Between County Highways.—Whenever any road is improved by a county, in accordance with the provisions of an act, approved the eleventh day of May, one thousand nine hundred and eleven, page two hundred and forty-four, entitled "An act providing for the original location, laying out, and construction of public roads or highways in the several counties of this Commonwealth, and for permanent improvement of certain public roads or highways therein; making such originally constructed or improved roads and highways county

roads; authorizing the relocation, opening, straightening, widening, extension, and alteration of the same, and the vacation of so much of any road as may thereby become unnecessary; providing that the county commissioners of any county may prescribe rules regulating the use of roads constructed or maintained by the various counties, and prescribing penalties for the violation thereof; providing for the taking of property for such improvement, the compensation to be paid therefor, and the payment of damages resulting from such taking, and the manner in which such damages may be determined; providing for the payment of the costs and expenses of such construction or improvement and in thereafter repairing and maintaining said roads; authorizing the levy of a tax or the issuing of bonds to provide a fund for the expense thereof; prescribing a method for improving a county road lying within or traversing a borough, and apportioning the cost of such improvement; and authorizing the vacation of any county road," and its amendments, and when a borough intervenes between two ends of such county highway, and the borough has failed to improve the street [or streets] constituting the shortest and most reasonable route through the borough, which will connect the two ends of such highway, the council of the borough may, by ordinance, contract with the county commissioners, that the shortest and most reasonable route through such borough be improved; or when an improved county highway terminates at the limits of a borough in the same or another county, and connects with a borough street which the borough has failed to improve, and the county commissioners deem the improvement of such borough street necessary, in order to make such highway accessible to the traveling public, the council of the borough may, by ordinance, contract with the county commissioners for the improvement of such street.

Section 1757. Payment for Improvements.—When ever an improvement is made to a borough street, pursuant to the preceding section, the cost of such improvement may be divided between the borough and the county. The borough ordinance authorizing the improvement shall stipulate what percentage of the cost, if any, the borough and county shall pay. The contract for such improvement may be taken by the borough, upon the stipulation of the county to pay its proportionate share of the cost, or the improvement may be made by joint contract with the county.

Section 1758. Maintenance Agreements.—Before any [highway] street is so improved the borough shall agree with the county commissioners for the maintenance of such [highway] street. Such agreement may

provide that such [highway] *street* shall be kept and maintained in repair by the borough, or by the county, and in the latter case the cost thereof shall be paid by the borough to the county.

Section 52. Subdivision (g) of Article XVII and section 1760 of the act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 53. Subdivisions (h), (i) and (j) of Article XVII are hereby relettered to subdivisions (e), (f) and (g) and sections 1765, 1770, 1771 and 1775 are hereby reenacted, revised and amended to read as follows:

[(h)] (e) Use of Abutting Lands for Embankments, Slopes, Fills, and Culverts

Section 1765. In the grading of any street, [lane, or alley] or any part thereof, boroughs are hereby authorized and empowered to use so much of the lots and lands abutting on the same for the construction of embankments, slopes, fills, and culverts, as may be necessary and proper for the completion of the improvement; and the assessment of damages, costs, and expenses, resulting thereby, shall be regarded as other assessments of damages, costs, and expenses, caused by the grading of streets, [lanes, and alleys] in said borough, and shall be assessed and paid, as is provided by article fourteen of this act.

[(i)] (f) Special Tax and [Sinking] *Special* Fund for Street Improvement

Section 1770. Special Road [Sinking] Fund Tax.—[The several boroughs] *Boroughs* are hereby empowered *within their general power* to levy [and] *taxes and to collect annually a tax upon all property, taxable for borough purposes not to exceed five mills on the dollar in any one year, for the purpose of creating and maintaining a [sinking] special fund, to be used by such borough in making permanent street improvements, and to pay contract prices for paving and other permanent street improvements, prior to the collection of the cost and expense or any part thereof from the property owners adjoining or abutting thereon by such borough under existing laws.*

Section 1771. Repayments Into [Sinking] *Special* Fund.—When the cost and expense, or any part thereof, of the construction of any permanent street improvement, which has been made under existing laws, and which has been aided in its construction from the said [sinking] *special* fund hereby provided for, shall have been assessed and collected from the owners of the property adjoining or abutting upon such improvement, it

Subdivision (g) of Article XVII and section 1760, act of May 4, 1927 P. L. 519, repealed.

Subdivisions (h), (i) and (j) of Article XVII relettered to subdivisions (e), (f) and (g) and sections 1765, 1770, 1771 and 1775, reenacted, revised and amended.

shall be applied to the credit of the said [sinking] *special* fund, to the extent of the withdrawal therefrom for such purpose.

[(j)] (g) Collection by *Instalment of Cost of Grading and Improving Streets

Section 1775. Ordinances for *Instalment Payments.—When any borough shall authorize the grading, sub-grading, or the permanent paving and improvement, of any streets [or alleys,] or parts thereof, and the entire costs, or any part thereof, shall be assessed against the properties abutting on such improvement, whether by the foot-front rule or according to benefits, the council may provide in the ordinance that the assessment may be paid in semi-annual or annual **instalments. Such **instalments shall bear interest, at a rate not exceeding six per centum, [from the date of the commencement of the work or the construction of such improvement] *commencing at such time as may be fixed by ordinance.*

Sections 1776 and 1777, act of May 4, 1927 P. L. 519, repealed.

Sections 1778 to 1781, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Sections 54. Sections 1776 and 1777 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 55. Sections 1778, 1779, 1780 and 1781 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Section 1778. Entry of Liens.—Liens to secure the assessments shall be entered in the prothonotary's office of the county, in the same form and collected in the same manner as municipal claims are filed and collected.

Section 1779. Assessments; Where Payable.—Such assessments shall be payable at the office of the borough treasurer, or such other place as the ordinance shall provide, in semi-annual or annual **instalments, with interest at the rate provided from the date from which interest is computed on the amount of the assessments. The moneys so received by the borough shall be applied to the payment of such bonds *and interest thereon* exclusively.

Section 1780. Default in Payment of *Instalment.—In case of default in the payment of any ***instalment and interest for a period of sixty days after the same shall become due, the entire assessment and accrued interest shall become due; and the borough solicitor shall proceed to collect the same under the general laws relating to the collection of municipal claims.

Section 1781. Payments in Full; Subdivisions of Property.—Any owner of property, against whom any such assessment has been made, may pay the same in

* "Installment," in original.

** "Installments," in original.

*** "Installment," in original.

full, at any time, with interest thereon to the next semi-annual or annual payment, and such payment shall discharge the lien. If any owner shall subdivide any property after the lien attaches, he may, in like manner, discharge the same upon any subdivided portion thereof by paying the amount for which such part would be liable.

Section 56. Said act of May 4, 1927 (Pamphlet Laws 519) is hereby further revised and amended by adding thereto sections 1785, 1786, 1787, 1788, 1789 and 1790 as subdivision (h) of Article XVII to read as follows:

Act of May 4, 1927 P. L. 519, amended by adding sections 1785 to 1790 as subdivision (h) of Article XVII.

(h) *Collection of Cost of Street and Sidewalk Improvements by *Instalments*

Section 1785. Power.—Whenever any borough shall provide for any permanent paving and improvement of any streets and sidewalks, or parts thereof, and bonds are to be issued and sold in the manner provided by law to provide for the payment thereof, it shall have the power to ordain that the costs and expenses of such improvements may be collected in accordance with the provisions of this subdivision.

Section 1786. Contract Price Taken as Cost.—The contract price for such improvements, and interest thereon to the first day when interest is payable on such bonds, shall be taken as the cost of said improvements to be assessed on the property benefited, according to existing law.

Section 1787. Filing Liens.—Claims for such assessments shall be filed in the prothonotary's office in the manner provided by law for the filing of municipal claims, and shall, if filed within six months from the completion of the improvements, remain a lien upon the property assessed until the term for which said bonds are issued shall expire, unless sooner paid and satisfied, or until the property is sold for the nonpayment thereof as hereinafter provided.

*Section 1788. Collection of Assessments.—Such assessment shall be payable at the office of the borough treasurer, in equal annual **instalments during the term of years for which said bonds are issued, with interest, at the rate provided in said bonds, from the date to which interest was computed on the amount of the assessments or so much as remains unpaid from time to time, until all said assessments and interest are fully paid. The money so received by the borough treasurer shall be applied to the sinking fund. Any owner of property against whom an assessment shall have been*

* "Installments," in original.

** "installments," in original.

made for such improvement, shall have the right to pay the same, or any part remaining unpaid, in full, with interest thereon, due on said assessment. Such payment shall discharge the lien. If any owner shall subdivide any property after such lien attaches, he in like manner may discharge the same upon any subdivided portion thereof by paying the amount for which said part would be liable.

*Section 1789. Payment of Interest.—If all annual *instalment and interest payments are made, as herein provided, at the times fixed by the borough council, no proceedings shall be instituted for the collection of such assessment and no property shall be sold for the non-payment thereof during the term of years for which said bonds are issued.*

*Section 1790. Defaults in Payments.—In case of default in the payment of any two annual *instalment payments and interest, for a period of sixty days beyond the time when the second defaulted payment was due, the entire assessment and accrued interest shall become due and payable, and the borough solicitor shall proceed to collect the same in accordance with law. If at the end of the term for which the bonds were issued, any part of such assessment and interest shall remain unpaid, the borough solicitor shall, within six months thereafter, proceed in like manner to collect the same.*

Section 57: Sections 1801 to 1807 inclusive of the act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 1801 to 1807, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE XVIII

SIDEWALKS

(a) Grading, Paving, Repairing Sidewalks, Curbs, and Gutters

Section 1801. Power to Ordain and Lay Out.—Boroughs may ordain and lay out sidewalks, curbs, gutters, and drains on the streets of the borough.

Section 1802. Establishment of Grades.—Boroughs may establish a grade or grades for [footways or] sidewalks, which grade or grades may be separate and apart from the grade or grades established for the cartway or roadway.

Section 1803. Sidewalks on [Turnpikes and] State Highways.—Boroughs may ordain and lay out sidewalks, gutters, and drains upon the beds of [turnpike roads or] State highways, with the consent of [companies controlling such turnpikes or] the State [Highway Commissioner] *Secretary of Highways*.

Section 1804. Sidewalks on Lands Abutting State Highways.—Boroughs may ordain and lay out sidewalks,

* "installment," in original.

gutters, and drains upon lands abutting the sides of State highways, and upon land abutting the sides of public roads, where such roads are outside the borough limits, and the land upon which such sidewalks are to be laid out is within the borough limits.

Section 1805. Width of Sidewalks; Grading and Paving.—Boroughs [shall] *may* fix the width of all sidewalks; and may require the grading, paving, and repairing of sidewalks, and the constructing and repairing of curbs and gutters at the edge of sidewalks, by the owners of lots fronting thereon. *All sidewalks, curbs and gutters when constructed shall be kept in safe and usable condition by the owner of the abutting property.*

Section 1806. Borough May Pay Part of Cost.—The borough may pay a portion of the cost and expense of grading and curbing sidewalks.

Section 1807. Borough May Do Work; Collection of Cost.—Upon the neglect of any owner of lots to comply with the requirements as provided in the preceding sections of this article, the borough may, after notice, cause the grading, paving, repairing, curbing, and guttering to be done at the cost of such owner, and may collect the cost thereof and ten per centum additional, together with all charges and expenses, from such owner, and may file a municipal claim therefor or collect the same by action in assumpsit.

Section 1808. Service of Notice.—All such notices shall be served upon the owner of the premises to which the notice refers, if such owner [be] is a resident of the borough. If the owner is not a resident, then the notice may be served upon the agent or tenant of the owner, or upon the occupant of such premises. If the owner [have] has no agent or tenant or there [be] is no occupier of such premises, then service shall be by [printed or written] notice posted upon the premises

Section 58. Said act of May 4, 1927 (Pamphlet Laws 519) is hereby revised and amended by adding thereto section 1809 to read as follows:

Section 1809. Sidewalks Creating Nuisances.—Where a nuisance results from the condition of a sidewalk and the safety of pedestrians is imminently jeopardized, the borough may abate the nuisance, with or without notice, and may collect the cost thereof in the same manner and to the same extent as in other cases of the abatement of nuisances.

Section 59. Subdivision (b) of Article XVIII and sections 1810, 1811, 1812 and 1813 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Act of May 4,
1927 P. L. 519,
amended by add-
ing section 1809.

Subdivision (b)
of Article XVIII
and sections 1810
to 1813, act of
May 4, 1927
P. L. 519,
repealed.

Subdivision (c) of Article XVIII relettered and sections 1815 to 1817 reenacted, revised and amended.

Section 60. Subdivision (c) of Article XVIII is hereby relettered and sections 1815, 1816 and 1817 are hereby reenacted, revised and amended to read as follows:

[(c)] (b) Emergency Repairs to Sidewalks

Section 1815. Emergency Repairs; Notice.—In addition to the remedies now vested in [the borough of this Commonwealth] *boroughs* to make repairs to sidewalks, [the said] boroughs shall have power to make emergency repairs to sidewalks within corporate limits, where, in the opinion of the officer or head of the department or committee lawfully having charge of sidewalk repairs, a dangerous condition exists that can be repaired by an expenditure of not more than [twenty-five] *fifty* dollars. Before the said repairs are made, a notice to make the repairs within forty-eight hours shall be served upon the owner of the said property. If the owner cannot be served within the county, notice may be served upon the agent of the owner, or the party in possession, [if any there be] or if there [be] *is* no agent or party in possession, the notice may be served by posting *the same* upon [the most public part of] the said premises.

Section 1816. Collection of Costs.—Upon the completion of the work, the cost thereof shall be a charge against the owner of the property, and shall be a lien, until paid, upon the abutting property, provided a claim is filed therefor in accordance with the law providing for the filing and collection of municipal claims. *Any such charge may also be collected by action of assumpsit.*

Section 1817. Limitation on Cost.—This subdivision is intended to provide an additional remedy for boroughs in connection with emergency repairs, where the actual cost of doing the work does not exceed [twenty-five] *fifty* dollars, and the certificate of the officer or head of the department or committee in charge of repairs to sidewalks shall be conclusive evidence of the existence of the emergency justifying the repair under the terms of this act.

Article XIX and sections 1901 and 1902, re-enacted.

Section 61. Article XIX and sections 1901 and 1902 are hereby reenacted to read as follows:

ARTICLE XIX

CONTRACTS WITH STREET RAILWAYS

Section 1901. Power to Contract.—To secure the removal of any street railway tracks, or to prevent the laying of any tracks authorized to be laid, or to change the route of any street railway on any street, a borough may, subject to the approval of the Public [Service] *Utility* Commission, enter into a contract with a street railway

or motor power company, owning, leasing, or operating such tracks, for a period not exceeding fifty years, for such considerations and upon such conditions as may be agreed upon.

Section 1902. Covenants.—Such contract may include a covenant providing that, during the continuance thereof, municipal consent shall not be granted to any other company to use, for street railway or passenger transportation purposes, any streets covered by such contract. Such covenant may be enforced by bill in equity against the borough. The contract may also provide for the laying or relaying of tracks, upon such terms and upon such conditions as may be agreed upon.

Section 62. Sections 2001 to 2021 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 2001 to 2021, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE XX

BRIDGES AND VIADUCTS

(a) General Power

Section 2001. General Powers.—Boroughs may construct bridges, and the piers and abutments therefor, and in exercising such power shall have the right to take, use, and occupy private property. *Bridges constructed by boroughs shall be deemed to be a part of a street.*

Section 2002. Proceedings.—Whenever any borough shall build any bridge, and the piers and abutments therefor, the same procedure shall be had as provided in article sixteen of this act, relating to the opening, widening, and straightening of streets, and all damages shall be awarded and benefits assessed as provided in article fourteen of this act.

Whenever in the laying out, opening, widening, extending, straightening, or grading of streets, it becomes necessary to build bridges, piers, and abutments therefor, the proceedings therefor shall be, in the case of opening, widening, extending, or straightening streets, as provided in article sixteen; and in the case of grading streets, as provided in article seventeen; and all damages shall be awarded and benefits assessed as provided in article fourteen of this act.

(b) Over Boundary Streams

Section 2005. Power to Construct Boundary Bridges.—Whenever a creek, over which a bridge may be necessary, shall be on the division line of a borough and municipality or township, the borough shall unite with such municipality or township in the construction and maintenance of such bridge, and pay an equal share of the expenses incident thereto.

(c) Over Railroads

Section 2010. Power to Erect Across Railroads.—Boroughs may build bridges or viaducts over railroads, rivers, creeks, streams, and private property, or over railroads and any of them, or over railroads only, whether the bridges or viaducts be wholly or partly within the borough limits, for the purpose of uniting two or more streets or separate portions of the same street. Such bridges and viaducts must in all cases cross railroads.

Section 2011. Proceedings.—Boroughs may provide for the laying out and opening of the routes or locations for such bridges and viaducts, which shall be public highways. The proceedings for the laying out and fixing such locations, and for the opening thereof, shall be as provided in article sixteen of this act for the laying out and opening of streets, except that no petition of property owners shall be required therefor.

Section 2012. Proceedings to Assess Damages and Benefits.—In case the borough has not agreed with the owner of any land for the damages done, or likely to be done, by the erection of any such bridge or viaduct, the borough may appropriate the lands and property necessary; and the damages and benefits caused by such appropriation shall be assessed by viewers in the manner provided in article fourteen of this act.

Section 2013. Contracts for Payment of Damages.—The borough shall also have power to enter into a contract with the county commissioners, and also with railroads, street railways, and other companies, or parties interested, for the building and maintenance of such bridges or viaducts, and for the payment of any damages caused by the location or erection thereof.

Section 2014. Maintenance.—Nothing contained in the preceding section shall authorize a borough to contract with a county for the maintenance of any bridge or viaduct which does not cross a place over which the county is authorized to build bridges; but such viaduct or bridge shall be maintained as a borough structure, and the borough is authorized to contract with any party interested, except the county, for the maintenance of the same.

Section 2015. Covenants of Contracts.—The contracts herein provided for may stipulate that the borough, county railroad company, street railway, or other company or party interested, shall pay a certain part of the contract price of the work, including damages; or may stipulate that each shall construct a certain portion of the work, and may provide otherwise for the payment of damages.

Section 2016. Payments by Railroad Companies.—When any railroad company, street railway, or other company or party interested, agrees to pay a certain portion of the cost of such work, it shall pay the same into the borough treasury; and the borough treasurer shall pay the same over to the contractor, as may be provided in the contract; but the amount to be paid by the county shall be paid directly to the contractor. The agreements may provide for the maintenance of the bridges and viaducts after their erection.

Section 2017. Plans; Bids.—After any such contract has been entered into, the borough, in conjunction with the county commissioners, shall have prepared plans and specifications of the entire work, and shall advertise for bids and award the contract to the lowest responsible bidder.

Section 2018. Covenants of Contract.—The contract for the work shall provide that the county shall pay its certain part of such bridge or viaduct, and the borough shall contract for the other part of the work; but the contract as to the borough's part shall be based upon the appropriation made by the borough for the part of the work for which it had agreed to pay, and the remaining part of the contract price shall be based upon the amounts the other parties have agreed to pay.

Section 2019. Contractor May Sue on Contract.—The contractor shall have a right of action against each party uniting in the contract provided for in this subdivision, for the part thereof agreed to be paid by each party.

Section 2020. Proceedings Where County Does Not Join.—In case the county commissioners do not unite in the contract, the borough may contract for the construction of such bridge or viaduct, and may pay for the entire work, or may contract with all or any of the other parties for such work. Plans and specifications shall be prepared and advertisement shall be made for bids by the borough, and the contract shall be let in the manner [hereinbefore] provided *in this act*.

Section 2021. Recording Contracts.—Any of [the] *such* contracts [provided for] may be recorded in the recorder's office of the county, and such record shall be notice to all persons who might be affected thereby.

Section 63. Subdivision (d) of Article XX and sections 2025, 2026, 2027, 2028, 2029, 2030 and 2031 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby repealed.

Subdivision (d)
of Article XX
and sections 2025
to 2031, act of
May 4, 1927
P. L. 519, re-
pealed.

Article XXI and sections 2101 to 2180, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 64. Article XXI and sections 2101 to 2180 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XXI

SEWERS

(a) [Laying Out and Assessment According to Benefits] *Construction of Sewers and Sewage Treatment Works*

Section 2101. Power to Lay Out, [and] Ordain and Construct.—Boroughs may, with the consent and permit of the Sanitary Water Board, lay out, [and] ordain [such common sewers and drains, as may be necessary, in any street or alley, or through or over private property] *and construct sewers in streets or on private property, and may construct sewage treatment works on land owned or acquired for such purposes, and pay the costs and expenses thereof out of borough funds, or may assess the costs and expenses of sewers in streets as herein provided.*

Section 2102. [Proceedings.—On] *Assessment According to Benefits.*—*Where a borough constructs sewers in streets of the borough and desires to assess the costs and expenses upon property benefited, then on petition, viewers shall be appointed, as provided in article fourteen of this act, who shall assess the damages, costs, and expenses of the sewer upon the property benefited, according to benefits, if sufficient can be found, but, if not, then the deficiency when finally ascertained shall be paid by the borough. The proceedings of the viewers and the proceedings on their report shall be as provided in article fourteen of this act.*

[(b) Sewer System and Assessment According to Foot-Front Rule]

Section 2105. [Ordinance to Construct System.—Any borough may by ordinance adopt and construct such system of sewers as may be necessary for the disposal of sewage matter.] *Assessment By Foot-front Rule.*—*Where a borough constructs sewers in streets of the borough and desires to assess the costs and expenses by the foot-front rule, they may by ordinance provide that the expenses shall be assessed upon the property abutting thereon by the foot-front rule and may provide for equitable adjustments for corner lots or lots of irregular shape where an assessment for the full frontage would be unjust. The secretary of the borough shall cause thirty days' notice of the assessment to be given to each party assessed, either by service on the owner or his agent, or left on the assessed premises.*

Section 2106. Places and Manner of Construction.—The borough shall fix the places along the streets, [alleys, and court] where such sewer, [mains or drains] and branches thereof, shall be laid down, and shall prescribe the manner in which they shall be constructed.

Section 2107. Permit from Sanitary Water Board.—No contract for the construction of any such sewer system or *treatment works* shall be entered into, until a permit for the construction of the same shall have been obtained from the Sanitary Water Board.

Section 2108. Assessments of Cost.—Whenever any borough shall [so determine to] construct any sewer in *any street*, [it shall, by ordinance] and assess the cost thereof, [as a sewage tax, upon the property adjoining or adjacent to the same, either] by the foot-front rule [or in such other manner as to the burgess and town council may seem equitable, which] *the* assessment, duly certified under the seal of the borough, attested by the burgess or the president of council and secretary, shall be collectible from the owner of such property.

Such certificate of assessment shall be prima facie evidence, in any suit for the recovery of the same, of the correctness and validity of such assessment.

The assessment herein referred to shall be computed under the terms of the ordinance, but the individual assessments need not be expressed therein.

Section 2109. Collections of Assessments.—If the owners of property against which a *foot-front* assessment [for sewage tax have] *has* been made shall refuse to pay such assessment within thirty days after notice of the same, it shall be the duty of the borough solicitor to collect the same, with interest from the time of completion of the improvement, by action of assumpsit, or by lien to be filed and collected in the same manner as municipal claims. When an owner has two or more lots against which there is an assessment for the same improvement, all of such lots may be embraced in one claim.

Section 2110. Regulations of Borough.—The borough may enforce, by penalties, such regulations as it may ordain with reference to the use and maintenance of such sewage system and *treatment works*.

Section 2111. Extensions Beyond Borough Limits; Eminent Domain.—The borough may extend the necessary sewer mains and outlets beyond the limits of such borough, to a point where such sewage is to be disposed; and shall have power to enter upon and condemn such lands, property, and materials for the construction of all such sewer mains, outlets, and *treatment works* as may be necessary for the disposal of such sewage.

Section 2112. Notice of Certain Ordinances.—No ordinance for any [such] construction of *sewers or treatment works* beyond the limits of the borough, [or any works connected therewith,] shall be adopted until notice thereof has been given, by publication of the proposed ordinance, for at least four weeks in one newspaper of *general circulation* published in the borough [or county], and if no such newspaper is published in the borough, then in such a newspaper circulating in the borough, and also by serving copies of such proposed ordinance upon all land owners through whose land such sewer is to pass, or on whose lands any treatment works are to be located, at least ten days before final action thereon. But no notice, as herein provided, shall be required where such construction beyond the limits of a borough is entirely within the limits of any street or highway. In such cases a written notice shall be given to the corporate authorities of the municipality or township having jurisdiction over such street or highway before the construction is commenced.

Section 2113. Security for Damages; Assessments.—Before entry shall be made upon private property without the owner's consent, for the purpose of laying any [such] sewer [or outlet] or constructing any [such] *treatment works*, security for all damages which may be done shall first be given to such owner in such form and in such amount as the court of common pleas of the county may direct. All damages caused by the construction of any such sewer or works, or by the taking of lands and materials therefor, shall be ascertained in the manner provided in article fourteen of this act for property taken, injured, or destroyed, and shall be paid out of the borough treasury.

[(c)] (b) Construction of Sewers Outside Cartway and Curb Lines

Section 2115. Power to Construct.—Boroughs are hereby authorized to require and permit sanitary sewers and sewer pipes to be laid and constructed on either side of the cartway or the curb lines thereof in any street [or highway].

The said sewers shall be for the service and use of the property abutting thereon, on the side of the street [or highway] in which they are laid.

Section 2116. Collection of Costs and Expenses.—The costs and expenses of any sewer laid and constructed as aforesaid may be assessed against the abutting property, in front of which the same is laid, and such costs and expenses, when so assessed, shall be assessed and collected in the [way and] *same* manner as the *costs and

* "cost," in original.

expenses of other sewers are assessed and collected in the respective borough in which the same are laid.

[(d)] (c) Joint Sewers

Section 2120. Building Joint Sewers.—(a) Boroughs may jointly with other [municipalities] *cities*, *boroughs* or townships [or both] build and construct sewers, including trunk line sewers or drains and sewage treatment works, and may connect into such system existing sewers, and may assess their respective portions of the cost thereof, or so much thereof as may be legally assessable, upon property benefited by the improvement, either by viewers [as is provided in the case of boroughs by section two thousand one hundred and two of this act,] or by the foot-front rule as provided [in sections two thousand one hundred and eight, and two thousand one hundred and nine of this act] *in this article*. Any portion of the cost of such improvement not assessed or not assessable shall be paid by the respective cities, boroughs, and townships joining, as may be agreed upon.

(b) The boroughs, cities, and townships joining or contemplating joining in any such improvement, in order to facilitate the building of the same and securing preliminary surveys and estimates, may by ordinance [or resolution] provide for the appointment of a joint sewer board composed of one representative from each of the boroughs, cities, and townships joining which shall act generally as the advisory and administrative agency in the construction of such improvement, and its subsequent operation and maintenance. The members of such board shall serve for terms of six years each from the dates of their respective appointments, and until their successors are appointed. The [joint sewer] board shall organize by the election of a chairman, [vice-chairman] secretary, and treasurer. *The secretary and treasurer may be the same person*. The several boroughs, cities, and townships may, in the ordinances [and resolutions] creating the [joint sewer] board, authorize the board to appoint an engineer, a solicitor, and such other assistants as are deemed necessary, and agree to the share of the compensation of such persons each borough, city, and township, is to pay. The members of the [joint sewer] board shall receive such compensation for attending meetings of the board as shall be fixed in the budget, prepared by the board for submission to, and adoption by, the several boroughs, cities, and townships, as hereinafter provided, and shall be entitled to actual expenses to be paid by the respective boroughs, cities, and townships which such members represent.

(c) The [joint sewer] board shall have power to adopt rules and regulations to govern its proceedings,

and shall prepare and suggest any practical measures and plans by means of which, the joint improvement may be carried to *successful completion; and *plan* the future development of the system, so as to conform to a general plan. [assured and safeguarded.] It shall have power to prepare a joint agreement or agreements for submission to and adoption by the several boroughs, cities, and townships defining the advisory and administrative powers of the board; setting forth the consents of the several boroughs, cities, and townships to the proposed improvement; the manner in which preliminary and final plans, specifications, and estimates for the proposed improvement shall be prepared and adopted; how proposals for bids shall be advertised, and contracts let; the manner in which the costs of the improvement and other incidental and preliminary expenses in connection therewith, and the future cost of operation and maintenance shall be equitably shared, apportioned, and paid; and all such other matters, including the preparation and submission of annual and other budgets, as may be deemed necessary or required by law, to carry the proposed improvement to completion and to assure future maintenance and operation thereof. But nothing herein contained shall authorize the board to make any improvement or expend any public moneys which has not first been authorized by all of the boroughs, cities, and townships, proceeding with the improvement.

(d) In any case where it shall be necessary to acquire, appropriate, injure, or destroy private property, lands, property, or material to build any such **joint sewer improvement, and the same cannot be acquired by purchase or gift, the right of eminent domain shall vest in the borough, city, or township where such property is located. In any case where it shall be necessary to acquire, injure, or destroy property in any territory not within the limits of any of the boroughs, cities, or townships joining in the improvement, then the right of eminent domain shall be vested in any borough, city, or township adjacent to such territory where such property is located. Damages for any property taken, injured, or destroyed shall be assessed as provided by the general laws relating to the boroughs, cities, and townships exercising the right of eminent domain; and shall be paid by the several boroughs, cities, and townships joining, in the same proportion as other costs of the improvement.

(e) Each of the boroughs joining in any such improvement shall have power to incur or increase its indebtedness, not exceeding the constitutional limits, for the purpose of paying its share or portion of the cost

* "successful," in original.

** "joining," in original.

of such improvement in the manner now provided by law for the incurring of indebtedness.

Section 2121. Approval of Sanitary Water Board.—No such sewer or *sewage treatment* plant shall be constructed until plans and specifications have been submitted to the Sanitary Water Board, and approved in accordance with provisions of [the act of Assembly providing for such approval] *existing laws*.

Section 2122. Connections with Sewers of Adjacent Municipalities.—Any borough may connect with an existing sewer, owned by any adjacent municipality *or township*, for sewage purposes, in the manner prescribed in the following sections of this subdivision of this article.

Section 2123. Applications to Court.—Whenever any borough shall desire to connect with the existing sewer of any adjacent municipality *or township*, and no agreement, either upon the basis of a rental payment for the use of an existing sewer or a division of the cost of the construction or maintenance thereof, has been reached between such borough and the adjacent municipality *or township*, an application shall be made by council to the court of quarter sessions of the county, setting forth that fact.

Section 2124. Appointment of Viewers.—If the court shall be of the opinion that such connection can be made without impairing the usefulness of the existing sewer, it shall appoint three viewers, who shall view the premises and investigate the facts of the case, and shall assess the proportionate part of the expense of building the original sewer upon such borough, and shall fix the proportion of the expense for repairs which each municipality *or township* shall thereafter bear, and determine all other questions liable to arise in connection therewith.

Section 2125. Report of Viewers; Appeals to Court.—The viewers shall report to the court the result of their investigation, which report shall be confirmed within thirty days unless exceptions thereto be filed. After confirmation of such report, or the disposal of any exceptions, any party interested may appeal from the decision of the court of quarter sessions to the Supreme or Superior Court.

[(e)] (d) Power to Supply Sewage Service
Outside Borough Limits

Section 2130. Power to Supply Service.—Whenever any borough is maintaining and operating a sewerage system and sewage purification or treatment works, it shall be lawful for such borough to supply sewerage service to municipalities, *townships*, persons, and corporations,

outside the limits of such borough, and to enter into contracts for such service, at rates not less than those required to be paid by persons and corporations within the limits of such borough; but no such privilege shall conflict with the rights of any sewer company, or the rights of any other borough.

Section 2131. Power to Extend Lines and Condemn Property.—For the purpose of supplying such sewerage facilities, any such borough may extend the necessary sewer mains and pipes beyond the limits of such borough, to the points where such sewerage is to be collected and received, and shall have the power to enter upon and condemn such lands, property, and materials for the construction of such sewer mains, and pipes, as may be necessary to the furnishing of such sewerage service.

Section 2132. Procedure; Assessment of Damages.—Before entry shall be made upon private property, without the owner's consent, for the purpose of laying any such sewer mains or pipes, or constructing such sewer collection system outside of the limits of the borough, security for all damages which may be done shall be first given to such owner, in such form and in such amount as the court of common pleas of the county may direct; and all damages, caused by the construction or laying of such sewer mains or pipes or by the taking of lands and materials therefor, shall be ascertained in the manner provided in article fourteen of this act.

[(f)] (e) Acquisition of Sewer Systems

Section 2135. Power to Acquire Sewer Systems.—Any borough, in which any person, firm, or corporation is maintaining sewers and culverts, with the necessary inlets and appliances for surface, under surface, and sewage drainage, may become the owner of such sewers, culverts, inlets, and appliances, by [paying therefor the actual value of the same at the time of the taking by the borough] *purchase or by the exercise of the power of eminent domain.*

Section 2136. Assessment of Damages.—In case of disagreement, the amount to be paid shall be ascertained **[in the same manner as damages are ascertained under in the manner provided in article fourteen of this act.* In the same proceeding, the viewers shall assess the costs and expenses of the sewer, culverts, inlets, and appliances, acquired by the borough, upon the property benefited, according to benefits, if sufficient can be found; but, if not, then the deficiency when ascertained shall be paid by the borough.

* “[in the same manner as damages are ascertained],” omitted in original.

[(g)] (f) Collection by *Instalment of Cost
of Building and Acquiring Sewers

Section 2140. Ordinance for *Instalment Payments; Interest.—Whenever any borough shall, by ordinance, authorize the construction or acquisition of any sewer, or system of sewers, and the entire cost, or any part thereof, shall be assessed against the properties abutting on such improvement, whether by the foot-front-rule, or according to benefits, the council may provide in such ordinance that the assessment may be paid in semi-annual or annual **instalments. Such **instalments shall bear interest, at a rate not exceeding six per centum, from the date of the commencement of the work or the construction of such improvement.

Section 2143. Liens to Secure Assessments.—Liens to secure the assessments shall be entered in the prothonotary's office of the county, in the same form and collected in the same manner as municipal claims are filed and collected.

Section 2144. Payment of Assessments.—Such assessments shall be payable at the office of the borough treasurer or such other place as the ordinance shall provide, in semi-annual or annual **instalments, with interest at the rate provided from the date from which interest is computed on the amount of the assessments. [The ***moneys so received by the borough shall be applied to the payment of such bonds exclusively.]

Section 2145. Default in Payment.—In case of default in the payment of any ****instalment and interest for a period of sixty day after the same shall become due, the entire assessment and accrued interest shall become due; and the solicitor shall proceed to collect the same under the general laws relating to the collection of municipal claims.

Section 2146. Payments in Advance; Subdivisions of Property.—Any owner of property, against whom any such assessment has been made, may pay the same in full at any time, with interest thereon to the next semi-annual or annual payment, and such payment shall discharge the lien. If any owner shall subdivide any property after the lien attaches, he may, in like manner, discharge the same upon any subdivided portion thereof by paying the amount for which such part would be liable.

Section 2149. General Powers Not Interfered With.—Nothing contained in this subdivision of this article shall prevent the construction of any sewer and the pay-

* "Installment," in original.
 ** "Installments," in original.
 *** "money," in original.
 **** "installment," in original.

ment of the same by general taxation, when the same is for the general health and public welfare of any borough.

[(h)] (g) Sewer Connections

Section 2155. Ordinances to Require Sewer Connections.—Any borough may, by ordinance, require any owner of property, abutting on or adjoining any street [or alley] in which is a sewer, to make connections with such sewer, in such manner as the borough may order, for the purpose of discharge of such drainage or waste matter as the borough may specify. The borough may by penalties enforce any regulation it may ordain with reference to any sewer connections.

Section 2156. Notice of Ordinances; Failure to Comply With Ordinance.—The owner shall be given forty-five days' notice of any resolution or ordinance requiring such sewer connection, and, upon failure to make such connection, the borough may make the same, and collect the cost thereof from the owner by a municipal claim or in an action of assumpsit. All connections required shall be uniform.

[(i)] (h) Unlawful to Build Within Line of Sewers

Section 2160. It shall be unlawful for any person to erect any building or make any improvement, within the lines of the sewers laid out or ordained to be laid out, after due notice thereof; and, if any such erection or improvement shall be made, no allowance shall be had therefor in the assessment of damages.

[(j)] (i) Opening Sewers

Section 2165. If any borough shall lay out or ordain any sewer, over or under private property, located in whole or in part within the limits of such borough, and proceedings to open the same and to assess the damage arising therefrom shall not be proceeded with by the borough, within two years from the enactment of the ordinance, the whole proceeding shall be void.

[(k)] (j) Assessment of Cost of Maintenance and Repair

Section 2170. Ordinance For Annual Rental.—Whenever any borough has constructed any sewer or sewer system, or has acquired wholly or partially the same at public expense, the council of such borough may provide, by ordinance, for the collection of an annual rental or charge, for the use of such sewer or sewer system, from the owner of property served by it. The council may, at its discretion, in lieu of such annual rental or charge, provide for the payment by such owner of a fixed sum.

Section 2171. How Rental Fixed.—Such annual rental shall not exceed the amount expended annually by the borough in the maintenance, repair, alteration, inspection, depreciation, or other expense, in relation to such sewer or sewer system, and may include any interest on money expended by the borough in the construction of the sewer or sewer system. The said annual or fixed sum shall be apportioned equitably among the several properties served by the said sewers.

Section 2172. Collection of Rental.—Such annual rental or charge, or such fixed sum, shall be authorized and collected as provided by general ordinances, and, when so levied and charged, shall be a lien on the properties charged. The collection thereof shall be made and enforced in the manner municipal claims are [now or may hereafter be] collected.

The councils of such borough shall execute a warrant or warrants, authorizing the collection of such annual sewer rentals or charges, or such fixed sum, to the officer employed by council to collect the same. Such officer shall have the authority now vested by law for the collection of borough taxes.

Section 2173. Lien.—Such annual sewer rentals or charges, or such fixed sum, shall be a lien on the properties charged with the payment thereof, from the date set forth in the ordinance, and, if not paid after thirty days' notice, may be collected by an action of assumpsit, in the name of the borough against the owner of the property charged, or by distress of personal property on the premises, or by a lien filed in the nature of a municipal lien.

(k) Sewers on Boundary Streets

Section 2174. Power to Lay and Construct.—Boroughs shall have authority to lay and construct sewers in any [alley,] street, [or highway] any portion of which is within the limits of the borough, and which forms a portion of the boundary dividing the borough from any other city, borough, or township within the same county, in the same manner and to the same extent as if the whole of said [alley,] street, [or highway] was within the limits of the said borough.

Section 2175. Assessment of Benefits.—The property abutting on the side of said street, [alley, or highway,] which is located outside the limits of the borough constructing such sewers, shall, for a depth of one hundred fifty feet, be assessed for the cost of such sewer, as a sewage tax, in the same manner as such property would be assessed, under the laws of the Commonwealth, if it were entirely located within the limits of such borough,

if such property is given permission to use such sewer and is not, at the time such sewer is constructed, provided with sewer facilities.

(1) Non-debt Revenue Sewer Bonds

Section 2180. Sewer Bonds.—For the purpose of financing the cost or expense, or its share of the cost or expense, of constructing or acquiring a sewer, sewer system or sewage treatment works, either singly or jointly with other municipalities or townships, or both, any borough may issue non-debt revenue bonds secured solely by a pledge, in whole or in part, of the annual rentals or charges for the use of such sewer, sewer system or sewage treatment works. Said bonds shall not pledge the credit, nor create any debt, nor be a charge against the general revenues, nor be a lien against any property of the borough, but shall be a lien upon and payable solely from the annual rentals or charges for the use of said sewer, sewer system or sewage treatment works.

Whenever any borough has enacted an ordinance or resolution imposing a sewer rental or charge upon properties to be served by such sewer system or sewage treatment works when the same is completed, and has pledged sufficient of the revenues to be derived therefrom for the payment of the interest and sinking fund charges on such non-debt revenue bonds, it shall have power to authorize the issue and sale of such non-debt revenue bonds, from time to time, as the work of construction proceeds, and sufficient additional non-debt revenue bonds, as may be necessary, may be issued and sold to provide for the interest and sinking fund charges accruing thereon, until said sewer system or sewage treatment works has been completed and has been in operation for not exceeding one year, in order to provide sufficient revenues until such time as sewer rentals or charges may be collected from the owners of properties being served.

Nothing in this section shall be construed to abridge or restrict or in any way impair, the right of any borough to create indebtedness in accordance with existing laws.

Article XXII
and sections
2201 to 2226, act
of May 4, 1927
P. L. 519, re-
enacted, revised
and amended.

Section 65. Article XXII and sections 2201 to 2226 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XXII

WATER-COURSES

(a) Widening and Deepening Water-Courses

Section 2201. Power to Widen and Deepen Water-Courses, and Erect Retaining Walls.—Boroughs may, *after a permit therefor has been secured from the Water*

and Power Resources Board, widen and deepen water-courses running through the borough, and may erect such dykes, retaining walls and embankments along the same as shall be necessary to prevent the water from overflowing the banks thereof. [and, for] *A borough may* for such purposes [may] enter upon and condemn such property as may be necessary.

Section 2202. Right of Entry Upon Lands.—Boroughs may enter upon any land lying near [such] water-courses, and secure such material as may be necessary for the purpose of making *and* repairing the embankments along such water-courses, when the same cannot be obtained by contract at reasonable prices. Boroughs shall cause no unnecessary damage to the owners of such lands, and shall repair any fences which they may [destroy] *injure*.

Section 2203. Appropriation of Moneys.—Boroughs may appropriate [for such purposes] any moneys of the borough [applicable to the making and maintaining of the streets and bridges of such borough] *for the purposes of carrying into effect the preceding provisions of this article*.

Section 2204. *Proceedings to Assess Damages.—Any person aggrieved by reason of any ordinance passed pursuant to the preceding sections of this article may complain to the court of common pleas, and proceedings may be had in the court to fix and determine the damages for property taken, injured or destroyed, [and for the assessment of benefits upon property benefited, and the rights of all parties interested,] in the same manner as provided in article fourteen of this act.

(b) Vacation and Alteration of Water-Courses

Section 2210. Power to Vacate or Alter Water-Courses.—Boroughs may vacate or alter the course or channel of any water-course, other than navigable streams, and for such purpose may enter upon and condemn such property and materials as may be necessary. *No such vacation or alteration shall be made until a permit therefor has been secured from the Water and Power Resources Board*.

Section 2211. Notice.—No ordinance for the vacation or alteration of the course or channel of any water-course shall be passed, until notice thereof has been given, by publication of the proposed ordinance, at least once a week for three consecutive weeks, in one newspaper of *general circulation* published in [the county] *the borough and if no such newspaper is published in the borough, then in a newspaper circulating in the borough*.

* "Proceeding," in original.

Section 2212. Viewers to Assess Damages.—The borough may, at any time after the passage of the ordinance, present a petition to the court of common pleas setting forth the nature of the vacation or alteration proposed in the course or channel of such water-course, together with a description of the proposed improvements, and praying the court to appoint three viewers to ascertain the damages, costs, and expenses resulting therefrom, and to assess the damages, costs, and expenses, or so much thereof as the viewers may deem reasonable, upon the property benefited.

Section 2213. Appointment of Viewers.—The court, or any law judge thereof in vacation, shall appoint three viewers from the county board of viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, when the viewers shall meet upon the line of the improvement and view the same and the premises affected.

Section 2214. Proceedings to Assess Damages.—The proceedings before such viewers for the allowances of damages for property taken, injured, or destroyed and for the assessment of benefits upon property benefited, shall be as provided in article fourteen of this act.

Section 2215. Discontinuance of Proceedings.—If any borough shall repeal any ordinance passed, or discontinue any proceeding taken, providing for any such improvements, prior to the entry upon, appropriation, or injury to any property or materials, the borough shall not be liable to pay any damages, but all costs upon any such proceeding, together with any actual damage or injury sustained by reason of such proceeding, shall be paid by the borough.

Section 2216. Liens.—When the court has entered its final decree confirming the report or fixing the assessments, the assessments of benefits shall become liens upon the property assessed; and such claims shall be filed and collected in the same manner as municipal claims. [are filed and collected, or they may be collected by action of assumpsit, the lien of the judgment however to be limited to the property assessed.]

Section 2217. Waters Excepted.—Nothing contained in [this] subdivision (b) of this article shall apply to any water-course used by any municipality or water company as a source of supply, unless such municipality or water company shall consent to such vacation or alteration.

(c) Confining and Paving Water-Courses

Section 2220. Power to Pave and Confine Water-Courses.—[Upon the written request of the board of

health, *the*] A borough may, after a permit therefor has been secured from the Water and Power Resources Board, confine and pave any water-course or part thereof, other than navigable streams, within the limits of the borough. [and, for such purpose] *For such purposes, a borough may enter upon and condemn such property and materials as may be necessary to complete such work.*

Section 2221. Notice of Ordinance.—No ordinance for the confining or paving of any water-course shall be passed until notice thereof has been given, by publication of the proposed ordinance, once a week for three consecutive weeks in one newspaper of general circulation published in [the county] *the borough and if no such newspaper is published therein, then in a newspaper circulating therein.*

Section 2222. Petition for Viewers.—When the work of confining and paving of any water-course has been completed, if the borough cannot agree with the property owners as to the payment of the *damages*, costs and expenses, the borough may present its petition to the court of common pleas, setting forth the character of such improvements, and that the *damages*, costs, and expenses incurred have not been paid, and praying the court to appoint three [freeholders as] viewers to ascertain the *damages*, costs and expenses resulting therefrom, and to ratably assess the *damages*, costs, and expenses, or so much thereof as the viewers may deem reasonable, upon the property benefited, and make report thereof to the court.

Section 2223. Appointment of Viewers.—The court, or any law judge thereof, shall thereupon appoint three viewers from the county board of viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, when the viewers shall meet upon the line of the improvement and view the same.

Section 2224. Proceedings to Assess Damages.—The proceedings before such viewers for the *allowance of *damages* for property taken, injured, or destroyed, and for the assessment of benefits upon property benefited, shall be as provided in article fourteen of this act.

Section 2225. Liens.—The final assessment against any property shall be a lien for the amount of such assessment, dating from the time of the final confirmation of the report, or the final decree of the court fixing such assessment. [if filed in the court within six months from the final assessment or confirmation.]

Section 2226. Exceptions.—Nothing contained in [this] subdivision (c) of this article shall apply to any water-course used by any borough or water company

* "allowances," in original.

as a source of supply, unless such borough or water company shall consent to such confining or paving.

Article XXIII
and sections
2301 to 2305, act
of May 4, 1927
P. L. 519, re-
enacted, revised
and amended.

Section 66. Article XXIII and sections 2301 to 2305 inclusive of this act are hereby reenacted, revised and amended to read as follows:

ARTICLE XXIII

ELECTRIC WIRES

Section 2301. Powers of Boroughs.—Boroughs may define, by ordinance, a reasonable district within which electric light, electric power, telephone, and telegraph wires shall be placed underground in conduits, owned *and constructed* either by the borough or by corporations owning such wires, or by corporations organized for the purpose of laying such conduits and renting space therein.

Section 2302. Borough Regulations.—Whenever conduits are owned by any person, firm, or corporation, the borough may regulate, by ordinance, the manner in which conduits shall be used, and the terms and conditions [and the rate of rental to be charged for space therein.] *of such use*.

Section 2303. Acquisition of Conduits; Assessment of Damages.—Boroughs may acquire [such] *existing* conduits by purchase or by condemnation, and, in the latter case, the court of common pleas, or any judge thereof in vacation, shall, upon the petition of the borough, appoint a jury of three viewers from the county board, not residents of the borough, and the proceedings for the assessment of damages shall be the same as provided in article fourteen of this act for property taken, injured, or destroyed.

Section 2304. Borough Not to Surrender Rights.—The borough authorities shall not surrender or barter away the rights reserved in this article.

Section 2305. Appeals from Ordinances.—The court of quarter sessions of the county, upon the appeal of any person, may review any ordinance passed pursuant to this article, and may annul such ordinance, if deemed unreasonable, *capricious or arbitrary*. Such appeal shall be taken within thirty days from the approval of such ordinance.

Sections 2401 to
2421, act of May
4, 1927 P. L.
519, reenacted,
revised and
amended.

Section 67. Sections 2401 to 2421 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XXIV

PUBLIC SERVICE

(a) Water Supply and Water-Works

(1) General Powers to Supply Water:

Section 2401. Power to Supply Water.—Boroughs may provide a supply of water for the use of the public

within such borough, by erecting and operating water-works, by purchasing and operating water-works, by entering into contract with persons or corporations authorized to supply water within the limits of such borough, or partly by the erection or purchase and operation of water-works, and partly by entering into a contract.

Section 2402. Contracts Not to Abridge Powers.—No contract for the supply of water hereafter entered into by any borough with any person or corporation shall, in any wise, abridge the power of the borough to construct and operate water works as provided in the preceding section of this article, but such power shall remain in force as though such contract had not been made.

Section 2403. Issue of Bonds Where Water-Works Acquired.—Where the price and terms are agreed upon, a borough may become the owner of and operate any water system owned and operated by a corporation furnishing water within the acquiring borough, and in [adjacent] *nearby* townships or [nearby] boroughs, and may pay therefor [by obligations secured by liens on the property acquired and which shall be secured solely by such water works systems and property and the revenues thereof, and without any other liability on the part of such borough, which obligations shall be exempt from taxation for any purpose] *from the revenues derived from general obligation bonds or utility bonds or non-debt revenue bonds issued in the manner provided by the Municipal Borrowing Law:* Provided, That this section shall not apply where a duly organized water company is authorized to furnish, and is furnishing, service in the [adjacent] *nearby* townships or [nearby] boroughs, where the water company whose system is purchased under the provisions of this act had been furnishing service.

Section 2404. [Vote of Electors in Special Cases.—In all boroughs where authority is given to construct water-works, and where the qualified voters are given the right to determine by vote the expediency of constructing such water-works, and whenever the question of expediency has been submitted to a vote, and has been determined in favor of such expediency, and the construction of such works has not been commenced within four years after such election, it shall be unlawful thereafter to proceed with such construction until the expediency thereof has been determined by another election.] *Refunding Bonds.—Where any borough has heretofore acquired or shall hereafter acquire any water-works and the appurtenances thereto, subject to any*

existing lien or liens, and at the time of such acquisition issues utility bonds secured solely by liens on the property of such water-works and imposing no municipal liability; then the borough may, at the time such utility bonds mature, or at any time prior thereto, issue and sell utility bonds for the purpose of refunding such outstanding bonds, which refunding bonds shall be issued as utility bonds in the manner provided by the Municipal Borrowing Law. Such bonds, so issued, shall not be deemed to be the creation of new obligations but be deemed a continuation of the bonds existing or created at the time of the original acquisition of said water-works and the appurtenances thereto.

Such bonds shall not be refunded for a longer period than twenty years, and the refunding lien bonds issued shall not bear interest at a rate exceeding six per centum, and the amount of the refunding lien bonds, so issued, shall not exceed, in the aggregate, the amount of the bonds to be refunded: Provided, however, That any moneys, placed in any fund by the borough or by any commission of water-works for the purpose of redeeming or paying such bonds at maturity, shall be first applied to the payment, as far as applicable, of the principal of such bonds to be refunded, and the balance of such bonds only shall be refunded by the issue of new bonds.

Section 2405. Rates in Particular Boroughs.—Whenever the schedule of water-rates in any borough, owning or controlling water-works, shall have been fixed or limited by [general or] special act of Assembly, the borough may change the rates or schedule of rates from time to time. [so that the same shall not at any time exceed the rates now limited.]

Section 2406. Contracts to Supply Water for [Fire Protection] *Municipal Purposes*.—Boroughs may receive bids from incorporated water companies, authorized to do business within such borough, for the supply of water for fire protection and for other municipal purposes, and may contract therefor with such company.

Section 2407. Power to Supply Water Beyond Limits of Borough.—Whenever any borough is maintaining water-works it shall be lawful for such borough to supply water, for ordinary and domestic uses, to persons and corporations outside the limits of such borough [at rates not less than those required to be paid by persons and corporations within the limits of such borough]; but no such privilege shall conflict with the corporate rights of any water company, or the rights of any other borough.

Section 2408. Assessment for Water Mains.—[That boroughs in this Commonwealth] *Boroughs* shall have

power to assess the whole cost, or any part of the cost, of construction of new water mains, built in connection with the establishment or extension of a municipally owned water supply system, and serving the properties abutting thereon, against the properties abutting along the line thereof, by the front-foot rule, and to collect such assessments as other municipal claims are now by law collectible: Provided, That the assessment shall be rebated to the owner of the property assessed, out of rates charged for water consumed in serving the property so assessed: And provided further, That the borough may issue negotiable credit memorandum to the amount of the assessment, which may be used for the payment of any water service to the extent of the said assessment.

(2) Acquisition by Eminent Domain:

Section 2410. Appropriation of Lands and Waters.—Any borough desiring to erect water-works, or to improve its water supply, may appropriate springs, streams, rivers, or creeks, and lands, easements, and rights of way, within or without its limits, and, for the purpose of conducting water obtained outside the limits of the borough, may lay pipes under and over any lands, rivers, streams, bridges, highways, and [across] *under* railroads. No water appropriated under the provisions of [the preceding] *this* section shall be used in such manner as to deprive the owner thereof of the free use and enjoyment of the same for domestic or farm purposes.

Section 2411. Agreements as to Damages; Bonds.—Prior to any such appropriation, the borough shall attempt to agree with the owner as to the damage done, or likely to be done, and, if the parties cannot agree, [or the owner cannot be found, or is under legal incapacity] the borough shall file its bond in the court of common pleas, conditioned for the payment to the owner of the property of the damages for the taking thereof, when the same shall have been ascertained. Upon the approval of the bond and filing thereof, the borough may enter upon such property.

Section 2412. Appointment of Viewers; Proceedings.—Upon petition of either the property owner or borough, at any time thereafter, the court shall appoint three viewers from the county board of viewers, who shall assess the damages for the property or rights appropriated, and shall fix a time for their meeting, of which notice shall be given to all parties interested. The proceedings for the assessment of damages shall be as provided in article fourteen of this act.

(3) Acquisition by Purchase after Appraisalment:

Section 2415. Petition to Court Expressing Desire to Acquire Water-Works.—Whenever any person, firm, or any corporation shall own any water-works or system, and a borough is desirous of owning and operating such water-works or system, such borough may present its petition to the court of common pleas of the county, setting forth that the borough is desirous of owning such water-works or system, and that it will be necessary to issue bonds, [to be secured by such water-works or system] and that a value should be placed upon such water-works or system, including all property, real and personal, used in connection therewith.

Section 2416. Appointment of Engineers as Appraisers to Make Valuation.—The court shall thereupon appoint three civil engineers as appraisers, to value and appraise such water-works or system, and the property used in connection therewith, and the contracts or agreements with municipalities or townships, who shall file their report in the court within three months after their appointment, unless such time be extended by the court.

Section 2417. Powers of Appraisers.—The appraisers shall have access to the books and records of the person, firm, or corporation owning such water-works or system, to inform themselves as to the income and value thereof. They shall have power to administer oaths and are authorized to take the testimony of witnesses. Their report shall be final if not appealed from.

Section 2418. Appeal from Appraisalment.—Within ten days after notice of the filing of any report *in court*, either party may appeal from such appraisalment, alleging an undervaluation or overvaluation of the property, and praying for a hearing before the court. The court shall thereupon fix a time when such appeal may be heard, of which time at least ten days' notice shall be given to the parties, and, upon such hearing, the court shall have power to *affirm or modify* such report [and either] *as to it appears just and proper*. Either party may appeal from the final confirmation of such report to the Superior or Supreme Court.

Section 2419. Effect of Failure of Owner of Works to Accept Price Fixed.—After the value is finally determined, the borough is authorized to buy such water-works or system at the valuation so fixed; and the person, firm, or corporation owning the same shall, within ten days after notice, file in court its consent to sell and convey its water-works or system and property to the borough at the valuation fixed; and, in default thereof, such person, firm, or corporation shall cease to have

any exclusive privilege of supplying the borough, or the citizens thereof, with water, and the borough may install such water-works or system as may be necessary for the accommodation of the public.

Section 2420. Issue of Bonds.—For the purpose of such purchase, the borough may issue [bonds, which shall be secured solely by such water-works systems and property, and the revenues thereof, and without any other liability on the part of such borough] *utility or non-debt revenue bonds in the manner provided by the Municipal Borrowing Law.*

Section 2421. Limit of Bond Issue.—Such bonds shall not exceed in amount the value fixed by the appraisers or the court. The proceeds of the sale of such bonds shall be used exclusively for the purpose of paying for the property acquired.

Section 68. Sections 2422, 2423 and 2424 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Sections 2422, 2423 and 2424, act of May 4, 1927 P. L. 519, repealed.

Section 69. Sections 2430, 2431, 2432, 2435 and 2436 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 2430, 2431, 2432, 2435 and 2436, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

(4) Power to Lease Water-Works:

Section 2430. Lease of Water Works.—The council of any borough may, [on behalf of such borough,] enter into a contract with any private individual, copartnership, association, or corporation, for the leasing of any water supply, works, systems, and property, or both of such [private] individual, copartnership, association, or corporation.

Section 2431 Term of Lease; Rental.—The said leasing may be for such term of years and at such rental, as shall be agreed upon by the borough and the [private] individual, copartnership, association, or corporation.

Section 2432. Operation of Property.—The property, so acquired, shall be operated in the same manner as if the same had been acquired by such borough by purchase or condemnation proceedings.

Section 2433. Rates.—The council of the borough, with the consent of the Public [Service] *Utility Commission*, shall fix the rates to be charged for the water furnished [within] *without* the limits of such borough to individuals, copartnerships, associations, or corporations.

(5) Joint Water-Works:

Section 2435. Joint Acquisitions and Constructions.—Two or more boroughs may unite, or any borough

may unite with a *city or township*, in the construction or acquisition and maintenance of works for the supply of water.

Section 2436. Permit of Sanitary Water Board.—The construction of *such* water-works [as provided for in the preceding section, shall be after plans for such water-works have been filed with the State Commissioner of Health, and a permit issued in accordance with the act of Assembly of April twenty-second, one thousand nine hundred and five, page two hundred sixty, entitled “An act to preserve the purity of the waters of the State for the protection of the public health.”] *shall be commenced only after plans for such water-works have been filed with the Department of Health and the Water and Power Resources Board and permits issued in accordance with law.*

Article XXIV
act of May 4,
1927 P. L. 519,
amended by add-
ing section 2437.

Section 70. Article XXIV of said act of May 4, 1927 (Pamphlet Laws 519) is hereby amended by adding thereto section 2437 as follows:

Section 2437. Joint Commission of Water-Works.—The boroughs, cities and townships joining in any such construction or acquisition and maintenance of works for the supply of water, in order to facilitate the building, operation and maintenance of the same, and in securing preliminary surveys and estimates, may by ordinance provide for the appointment of a joint commission of water works, composed of one representative from each of the boroughs, cities and townships joining, which shall act generally as the advisory and administrative agency in the construction of such improvement and its subsequent operation and maintenance. The members of such board shall serve for terms of six years each from the dates of their respective appointments and until their successors are appointed. The commission shall organize by the election of a chairman, secretary and treasurer. The secretary and treasurer may be the same person. The several boroughs, cities and townships may in the ordinances creating the commission authorize it to appoint an engineer, a solicitor and such other assistants as are deemed necessary and agree to share the compensation for attending its meetings as shall be fixed in the budget prepared by the commission and submitted to and adopted by the several boroughs, cities and townships. The budget item providing for the compensation to the members for attending meetings shall not exceed two hundred fifty dollars (\$250) per year, but members in addition thereto shall be entitled to actual expenses to be paid by the respective boroughs, cities and townships which such members represent. The fee for each attendance at meetings shall

be stipulated and no member shall be paid a fee for any meeting he does not attend.

Section 71. *Sections 2440 to 2492 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Sections 2440 to 2492, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

(6) **Condemnation of Lands for Road Purposes and to Prevent Contamination:**

Section 2440. **Overflowing Roads; Acquisition of Lands to Reconstruct Roads.**—Whenever any borough, in supplying water to the public, shall find it necessary, in storing water, to occupy and overflow with water portions of any [turnpike or] public road, or whenever any public road leads into or crosses over any reservoir used for the storage of water, the borough shall cause such [turnpike or] road to be reconstructed, at its own expense, on a favorable location, and in as perfect manner as the original road, and, for such purposes is authorized to condemn land, whenever an agreement as to the price cannot be had with the owners.

Section 2441. **Filing Maps and Plans.**—After such change is made the borough shall file in the court of quarter sessions of the county a map or plan showing such change of road, and shall furnish to the supervisors or other authorities of the township, or municipal corporation, a copy of such map.

Section 2442. **Condemnation of Lands to Prevent Contamination.**—Boroughs may acquire, by purchase or condemnation, such lands along and contiguous to the streams of water or reservoirs from which water is taken for public use, as may be necessary to preserve the same from contamination.

Section 2443. **Security for Payment of Damages.**—No land shall be taken for the uses mentioned in this subdivision [of this article] until compensation therefor shall have been paid, or secured, before such taking, injury, or destruction.

Section 2444. **Condemnation Proceedings.**—The damages incurred in changing the location of any such [turnpike or] public road, and in condemning land to preserve water from contamination, shall be ascertained in the manner provided in article fourteen of this act, and shall be paid by the borough.

(7) **Commission of Water-Works:**

Section 2450. **Commission May Be Established.**—Whenever any borough owns and maintains water-works, there may be established in such borough a commission of water-works, to be composed of three citizens of the borough, who shall be known as commissioners of water-works.

* "Section," in original.

Section 2451. Application to Court for Appointment of Commissioners.—Any borough desiring to avail itself of the provisions of this [act] *article*, so far as it relates to a commission of water-works, shall, by resolution passed by the council and recorded in its minutes, apply to the court of common pleas of the county for the appointment of commissioners of water-works.

Section 2452. Terms of Commissioners.—It shall be the duty of the court of common pleas, upon application of any borough, to appoint such commissioners of water-works, one of whom shall be appointed to serve for one year, one for two years, and one for three years; and annually thereafter the court shall appoint one commissioner of water-works to serve a term of three years. In case of a vacancy the court shall fill the same for the unexpired term.

Section 2453. Rescinding Action.—After three years from the first appointment, the borough may, at any time, rescind the resolution asking for the appointment of a commission of water-works. When such resolution shall be rescinded, the court shall make no further appointment of commissions, until a resolution shall again be passed by a council asking for such appointment.

Section 2454. Commissioners to Receive Expenses.—The commissioners of water-works shall not receive any salary for the services, but shall be paid all [moneys necessarily expended] *expenses necessarily incurred* in the performance of their duty.

Section 2455. Organization of Commissioners.—It shall be the duty of the commissioners of water-works to meet within ten days after their first appointment, and annually thereafter, and organize by electing a president and secretary.

Section 2456. Powers of Commission.—After organization, the commissioners shall take charge and control of the water-works of such borough. The commissioner shall have power to appoint all necessary officers and agents, and take from them such security for the faithful performance of their duty as they shall deem proper, and to fix the salaries and wages of such officers and agents; to provide for the repair, extension, improvement, and maintenance of such water-works, and the erection of new water-works; to collect water-rents and to make and establish the rates and conditions upon which water will be furnished to applicants therefor, and to make by-laws and regulations for the economic and efficient management of such water-works.

Section 2457. Issue of Bonds.—The borough may, upon the request of the commissioners of water-works, issue *general obligation or non-debt revenue bonds* for

the extension of the water-works or the erection of new water-works. Such bonds shall be designated "water-works bonds," and shall be [delivered to the commissioners, from time to time, upon their requisition, after the commencement of the work for the payment of which such bonds were issued. Each such requisition shall be accompanied by a detailed statement of the work done and materials purchased. The bonds shall not be sold for less than par, and the proceeds thereof shall be applied to the purposes for which such bonds were issued] *issued and sold in the manner provided by the Municipal Borrowing Law.*

Section 2458. Plans and Specifications for the Improvements; Contracts.—The commissioners shall prepare plans and specifications of all work to be performed and materials necessary for the repair, maintenance, and extension of such water-works, or the erection of new water-works; and shall, after plans and specifications for the extension or the erection of water-works have been submitted to and approved by the Sanitary Water Board, and a permit granted therefor by the board, invite proposals for the performing of such work and the furnishing of such materials; and shall let contracts therefor to the lowest responsible bidder, and shall take adequate security for the performance of such contracts.

Section 2459. Reports by Commission.—The commissioners shall make a monthly report to the council of the borough of the receipts and disbursements during the preceding month, and annually make a detailed report of the condition of the water-works, which shall be published by the council for the information of the public.

Section 2460. Care of Funds.—The commissioners shall cause all moneys collected to be deposited weekly, by the collectors, with the borough treasurer, who shall return a receipt therefor to the commissioners. All moneys so collected shall be kept in a separate fund, and shall be used for the purpose of repairing, maintaining, and extending such water-works, and the erection of new water-works. All moneys remaining after such expenditures shall be used for the payment of any indebtedness on said water-works and any indebtedness incurred by the borough for constructing, maintaining, improving, enlarging or extending said water-works. Said moneys shall be used for no purpose other than as provided in this section. No money shall be drawn from such fund except upon order countersigned by the president and secretary of the commission.

Section 2461. By-Laws and Regulations.—All by-laws and regulations, *relating to the management and*

operation of the water-works and the supply of water to the public, not inconsistent with the laws of the Commonwealth, the rules and regulations of the Sanitary Water Board or the Water and Power Resources Board, when made by the commissioners, shall have the force and effect of ordinance of such borough.

Section 2462. Government of Joint Works.—Whenever two or more boroughs, or any borough and a *city or township*, jointly construct and maintain water-works, and desire to avail themselves of the provisions of this act so far as it relates to a commission of water-works, the councils of such boroughs may join with the *council of the city or commissioners or supervisors* of such township, after ordinance duly passed, and apply to the court of common pleas of the county for the appointment of a commission of water-works in accordance with this subdivision of this article. Such commission shall be composed of citizens of each of the boroughs, *cities* and townships so uniting.

(b) Manufacture and Supply of Electricity

Section 2470. Manufacture and Purchase of Electricity.—Boroughs may manufacture or purchase electricity for the use of the inhabitants of such borough. Boroughs owning or operating electric light plants may make contracts for supplying electricity for commercial purposes outside the limits of such borough, with the consent of the municipal and township authorities. [at rates not less than those established from time to time within the limits of such borough.] Nothing in this section shall conflict with the corporate rights of any corporation empowered to supply electricity in territory adjacent to such boroughs, or with the rights of any other borough. No person, firm, or corporation shall introduce electric current for light, heat, or power purposes, without the consent of the borough authorities, into the limits of any borough which is furnishing electric current to the inhabitants: Provided, however, That this section shall not apply to any person, firm, or corporation manufacturing electricity exclusively for its own use.

Section 2471. May Regulate Use and Prices.—Boroughs *furnishing electricity* may regulate the use of electricity in dwelling houses, storerooms, and other places in such boroughs, and the price to be charged for the same.

Section 2472. Purchase of Electric Light Works.—Whenever any person, copartnership, or any electric light company organized under the laws of this Commonwealth, is furnishing light to any borough or the public, such borough is authorized to purchase the works of

such person, copartnership, or corporation, at such price as may be agreed upon by the borough and such person or copartnership, or a majority in value of the stockholders of such corporation.

Section 2473. Petition for Viewers.—Upon failure so to agree, the borough may present a petition to the court of common pleas, asking for the appointment of viewers to assess the value of the plant and works so taken; whereupon the court shall appoint three viewers from the county board of viewers, neither of whom shall be interested in such works, or be stockholders in such corporation, or taxpayers in such borough, and shall appoint a time for their meeting, of which ten days' notice shall be given to all parties in interest.

Section 2474. Duty of Viewers.—The viewers, having been sworn or affirmed justly and impartially to appraise the property, and having viewed the premises and taken such testimony as may be offered by any party touching the value of the property and franchises, they shall determine the amount of damages that such person, copartnership, or corporation will sustain, and to whom payable, and make report thereof to the court; which report, [having been confirmed by the court, judgment shall be entered thereon.] *shall be confirmed "nisi" by the court, and if no appeal is taken as hereinafter provided, shall be confirmed absolutely.*

Section 2475. Appeal from Report.—Either party may, at any time within thirty days after the confirmation "*nisi*" of any such report, appeal therefrom to the court of common pleas of the county.

Section 2476. Trial by Jury.—After such appeal, either party may put the cause at issue, in the form directed by the court, and the same shall be tried before a jury. After final judgment either party may have an appeal to the Superior or Supreme Court.

Section 2477. Exceptions to Report.—If any exceptions are filed with any appeal, they shall be speedily disposed of, and, if allowed, a new view shall be ordered; but, if disallowed, the appeal shall proceed as before provided.

Section 2478. Notices.—The court shall have power to order what notice shall be given in connection with any part of such proceedings.

Section 2479. Vote on Increase of Indebtedness.—Before any borough shall construct an electric light plant, or purchase the property of any person, copartnership, or electric light company, the question of the increase of the debt of such borough, for any of such purposes, shall first be submitted to the qualified voters

of the borough, in the manner provided by law for the increase of indebtedness of municipal *corporations.

(c) Operation of Gas Wells for Municipal Purposes

Section 2485. Any borough shall have authority to purchase, own, use, operate, and control any natural gas well, or wells, within the limits of such borough, or in the vicinity thereof, for the purpose of supplying natural gas for its own municipal purposes, the expense thereof to be paid out of the **revenues of such borough.

(d) Airports

Section 2490. Authority to Secure Lands for Airports.—All boroughs are hereby authorized and empowered to acquire, by lease or purchase, any land, lying either within or without the limits of such boroughs, which, in the judgment of the corporate authorities thereof, may be necessary and desirable for the purpose of establishing and maintaining municipal airdromes, aviation landing fields, and airport facilities.

The proceedings for the condemnation of lands under the provisions of this act, and for the assessment of damages for property taken, injured or destroyed, shall be conducted in the manner provided by article fourteen of the act to which this is an amendment. The title acquired by the borough exercising the power of condemnation shall be a title in fee simple.

Section 2491. Authority to Establish Airports and Lease the Same.—Any borough of this Commonwealth, acquiring land under the provisions of this [act] *article*, is authorized and empowered to establish, equip, condition, operate, and maintain the same as a municipal airport, airdrome, landing field, or intermediate landing field, and may lease the same, or any part thereof, to any individual or corporation desiring to use the same for aviation purposes; and any borough [of this Commonwealth] may enter into a contract, in the form of a lease, providing for the use of said land, or any part thereof, by the Government of the United States, for the use by said Government of said land for aviation purposes, upon nominal rental or without consideration.

Section 2492. Joint Airports.—Any borough, acquiring land under the provisions of this act, is authorized and empowered to acquire, by lease or purchase, land for aviation purposes, as hereinbefore provided, jointly with any county, city, borough, township, or political subdivision of this Commonwealth, and is hereby authorized and empowered to operate and maintain said airport, airdrome, landing field, or intermediate landing

* "corporation," in original.

** "revenue," in original.

field, jointly, with any county, city, borough, township, or other political subdivision of this Commonwealth, upon such terms and conditions as may be agreed upon between the proper authorities of the county, city, borough, township, or other political subdivision of this Commonwealth.

Section 71.1. Section 2493 of said act be and the same is hereby repealed.

Section 72. Sections 2501, 2502, 2503 and 2504 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XXV

PUBLIC BUILDINGS AND WORKS

(a) Eminent Domain; General [Powers] Provisions

Section 2501. Exercise of Eminent Domain.—Boroughs may enter upon and appropriate private property, and also land heretofore granted or dedicated to public use or other use, and which is no longer used for the purpose for which the same was granted or dedicated, and also lands where the title is defective, disputed, or doubtful, for the erection thereon of such public buildings and works as are necessary for municipal purposes within the limits of such borough.

Section 2502. Lands Excepted.—No land or property used for any cemetery, burying-ground, or place of public worship, shall be taken or appropriated by virtue of any power contained in the preceding section of this article.

Section 2503. Declaration of Intention.—Whenever the municipal authorities desire to acquire, enter upon, take, use, and appropriate any such private property or lands, for any of such purposes, they shall declare such intention by an ordinance duly enacted.

Section 2504. Proceedings.—The compensation and damages arising from such taking, using and appropriating of private property for the purposes aforesaid, shall be considered, ascertained, determined, awarded, and paid in the manner [hereinafter] provided in *article fourteen of this act*.

Section 73. Sections 2505, 2506, 2507, 2508 and 2509 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 74. Section 2510 of said act of May 4, 1927 (Pamphlet Laws 519) is hereby renumbered section 2505 and is reenacted as follows:

Section [2510] 2505. Payment of Damages and Costs.—All damages when ascertained, the costs of the viewers, and all court costs incurred in such proceedings,

Section 2493, act of May 4, 1927 P. L. 519, repealed.

Sections 2501 to 2504, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Sections 2505 to 2509, act of May 4, 1927 P. L. 519, repealed.

Section 2510, act of May 4, 1927 P. L. 519, renumbered section 2505, reenacted.

including advertising, printing, and posting notices, shall be paid by the borough.

Section 2511, act of May 4, 1927 P. L. 519, repealed.

Section 75. Section 2511 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same is hereby repealed.

Subdivision (b) of Article XXV and sections 2520 to 2522, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 76. Subdivision (b) of Article XXV and sections 2520, 2521 and 2522 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

(b) Garbage [and Treatment Works] *Plants*

Section 2520. Power to Purchase Real Estate.—Any borough separately, or [two or more boroughs] jointly, [including the right also of such boroughs to join] with [a] *another borough, city or township, [or townships]* may purchase any real estate within, or without the borough limits of any such boroughs, *cities or townships*, upon which to erect and maintain garbage or incinerating [furnaces and sewage-treatment works, with the necessary filterbeds, appliances, drains, and sewers] *plants*.

Section 2521. Approval of Site.—Boroughs desiring to locate any garbage or incinerating plant, shall first apply separately or jointly as the case may be to the court of common pleas for its approval of the location thereof; whereupon the court shall fix a date when objections to the location will be heard and shall prescribe what notice of such hearing shall be given. If at the time fixed for such hearing no objections shall be made to such location, the same shall be approved; but, if objection [be] is made, then the court shall proceed to hear the matter and determine whether the location is a detriment to neighboring properties. The finding of the court shall be conclusive, but shall in no way adjudicate any question relating to damages for injury to property.

Section 2522. Proceedings Where Owner Unknown.—In case the borough or boroughs cannot agree with the owner of such property as to the price, [or in case the owner is absent or incapacitated from any cause, or is unknown, by reason of which no agreement can be made] the borough or boroughs, separately or jointly, may take and appropriate, for any of such purposes, any real estate, after an ordinance or ordinances shall have been passed providing for such taking and appropriating.

Sections 2523 to 2526, act of May 4, 1927 P. L. 519, repealed.

Section 77. Sections 2523, 2524, 2525 and 2526 of said act of May 4, 1927 (Pamphlet Laws 519) be and the same are hereby repealed.

Section 2527, act of May 4, 1927 P. L. 519, renumbered section 2523, reenacted, revised and amended.

Section 78. Section 2527 of said act of May 4, 1927 (Pamphlet Laws 519) is hereby renumbered section 2523 and is reenacted, revised and amended to read as follows:

Section [2527] 2523. Proceedings.—The proceedings before [such] *the* viewers for the [allowance] *assessment* of damages for property taken, injured, or destroyed *under this article* and the proceedings upon their report shall be as provided in article fourteen of this act.

Section 79. Sections 2601 and 2602 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted and amended to read as follows:

Sections 2601 and 2602, act of May 4, 1927 P. L. 519, reenacted and amended.

ARTICLE XXVI

WHARVES AND DOCKS

Section 2601. Power with Regard to Wharves and Docks.—Boroughs may erect and repair wharves and docks, regulate and fix the rate of wharfage for all public wharves and docks within their limits, and enforce the collection of wharfage for the use of the same, and also regulate the anchoring of vessels, boats, or rafts within their limits, and the depositing of freight on such public wharves.

Section 2602. Purchase and Condemnation of Real Estate.—Boroughs may acquire, by purchase or condemnation, such real estate as they may need for the construction of wharves and docks within the limits of such boroughs, along navigable [streams] *waters*. No real estate for the erection of wharves and docks shall be so taken or appropriated until an ordinance authorizing the same shall have been passed and approved.

Section 80. Sections 2603, 2604, 2605, 2606, 2607, 2608, 2609 and 2610 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby repealed.

Sections 2603 to 2610, act of May 4, 1927 P. L. 519, repealed.

Section 81. Sections 2611, 2612, 2613, 2614, 2615 and 2616 of said act are respectively renumbered sections 2603, 2604, 2605, 2606, 2607 and 2608 and are hereby reenacted, revised and amended to read as follows:

Sections 2611 to 2616, act of May 4, 1927 P. L. 519, renumbered sections 2603 to 2608, reenacted, revised and amended.

Section [2611] 2603. Proceedings.—The proceedings before [such] *the* viewers for the [allowance] *assessment* of damages for property taken, injured, or destroyed *under this article*, and the proceedings on their report shall be as provided in article fourteen of this act. The costs of all proceedings, including the compensation of the viewers, shall be paid by the borough.

Section [2612] 2604. How Damages Assessed.—The damages for the taking or injury of any property for use as a wharf, pier, or bulkhead, shall include full compensation for the value of the property taken or injured; and if the property so taken or injured shall constitute

a part of a plant used as an entirety, the damage to the owner or tenant shall be assessed by taking the difference in market value of such plant as a whole, including buildings and all equipments installed and used in such plant, before and after taking or [injuries] *injury*, and notwithstanding that part of such plant may be separated by a highway

Section [2613] 2605. Leases.—Boroughs may lease any wharf or part thereof and collect rent therefor by distress or otherwise. No one term of any such lease shall be for a longer period than three years.

Section [2614] 2606. Market-Houses and Terminal Sheds.—Boroughs may erect and maintain market-houses and terminal sheds on wharves, for the receipt and distribution of freight and express [hailed by boats, railroads, and street cars]. Boroughs may also construct railroad and street railway tracks, or other facilities, on wharves, to provide for the convenient hauling of such freight or express matter and collect rents, tolls, or charges for the use of such market-houses, terminal sheds, tracks, and facilities. No permit other than a license revocable at will shall be granted, and no exclusive permit for the use of such facilities shall be granted.

Section [2615] 2607 Public Use Preserved.—No structure erected, and no right granted under the powers conferred by any of the preceding sections of this article, shall interfere with the public use of wharves for [river] *water-borne* commerce.

Section [2616] 2608. *Saving Clause*.—Nothing contained in this article shall be construed as conferring upon boroughs any power conferred by existing law on the Board of Commissioners of Navigation for the River Delaware and its Navigable Tributaries, or to permit boroughs to do any act, or to enact any ordinance, inconsistent with the laws relating to said board, or the rules and regulations of said board.

Section 82. Sections 2701 to 2708 inclusive of this act are hereby reenacted, revised and amended to read as follows:

Sections 2701 to 2708, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

ARTICLE XXVII

PARKS, SHADE TREES, FORESTS

(a) Parks and Playgrounds, Et Cetera

Section 2701. Power to Maintain and Improve.—[Borough] *Boroughs* may *provide*, improve, maintain, and regulate public parks, parkways and playgrounds, playfields, swimming pools, public baths, bathing places, indoor recreation centers, and gymnasiums, *hereinafter called recreation places*, within the borough limits or in

adjacent townships. Two or more boroughs may jointly *provide*, improve, maintain, and regulate [public parks, parkways, and playgrounds and playfields, including swimming pools, bathing places, indoor recreation centers and gymnasiums,] *such recreation places* within the limits of any township adjacent to any one of such boroughs. All expenses relative thereto shall be borne by the respective boroughs, in such proportion as may be agreed upon by the councils thereof.

Section 2702. Power to Acquire.—Boroughs may enter upon, appropriate, and acquire by gift, devise, purchase, lease, or otherwise, private property within the limits of the borough, or in adjacent townships; or any borough may designate and set apart any lands or buildings, owned by the borough and not dedicated or devoted to other public uses; and two or more boroughs may jointly appropriate, and acquire by gift, devise, purchase, lease, or otherwise, private property within the limits of any township adjacent to either of such boroughs, for the purpose of making, enlarging, and maintaining [public parks, parkways, and playgrounds, playfields, swimming pools, public baths, bathing places, indoor recreation centers and gymnasiums] *recreation places*. All the costs and expenses relative to any such property, acquired by two or more boroughs jointly, shall be paid by the respective boroughs in such proportions as may be agreed upon by the councils thereof.

Boroughs may likewise acquire private property within the limits of another borough or city, for the purposes designated in this section, if the other borough or city shall, by ordinance, signify its consent thereto.

Section 2703. Limit on Obligations.—No appropriation, purchase, or lease shall be made pursuant to the preceding sections, whereby any borough shall, within any period of three years, obligate itself to pay in the aggregate any sum exceeding one and one-half mills on the dollar on the assessed valuation of all property, offices, professions, and persons in the borough, upon which [county] borough taxes are [rated and] levied, without the consent of a majority of the electors obtained as hereinafter provided: Provided, [however] That no such election shall be required in any case where the question of the increase of *the indebtedness of the borough for any of the foregoing purposes shall have been submitted to and assented to by a majority of the electors of the borough voting on such question at an election held according to law.

Section 2704. Submission to Voters.—Whenever any borough shall, by ordinance, provide for the appropria-

* "the," omitted in original.

tion, purchase or leasing of private property, for the purposes aforesaid, and the value of such property, or the rental thereof, shall alone, or when added to the amount of liability incurred for any of the purposes aforesaid, within the preceding three years, exceed one and one-half mills on the dollar of valuation, as provided in the preceding section, and the question of the increase of indebtedness of the borough for any of said purposes has not been submitted to and assented to by a majority of the electors voting on such question at an election held for the purpose of obtaining such assent according to law, the council shall cause the question of such appropriation, purchase, or leasing to be submitted to the electors of the borough, at an election to be held at the places of holding elections in said borough on a day to be fixed by council, *which shall be the day of a general, municipal or primary election.*

Section 2705. Notice of Election.—The council shall give notice of the proposed submission of such question, by weekly advertisements in not more than three newspapers published in the borough, *and if no such newspapers are published in the borough, then in such newspapers circulating in the borough* for a period of four weeks immediately preceding the day of election, [and, if no newspapers be published therein, by twenty printed handbills posted in conspicuous places at least twenty-one days prior to such election.]

Section 2706. Question to Be Submitted.—For the purpose of having such question appear upon the ballot, the council shall certify the question to the county [commissioners] *board of elections* at least twenty-one days before the day of election. The question may be stated substantially as follows:

“Shall the borough of acquire, by purchase, or condemnation, or both, at a price not exceeding dollars (or by lease for not more than years, at an annual rental of not more than dollars), property for the purpose of making (or of enlarging) public parks, parkways and playgrounds and playfields, including swimming pools, bathing places, indoor recreation centers, and gymnasiums, within the locality bounded by”

The council may, at their discretion, omit the designation of the locality.

Section 2707. Result of Submission to Voters.—The result of the vote on such question shall be ascertained and certified in the manner provided by the election laws of this Commonwealth. No such question, determined

negatively by the voters, shall be again submitted within fifty-one weeks.

Section 2708. Appropriation for Public Purposes.—The appropriation of private property for the purpose of making, enlarging, and maintaining [public parks, parkways and playgrounds and playfields, including swimming pools, bathing places, and gymnasiums] *recreation places*, is declared to be the taking of private property for public use, and for all damage suffered by the owners of any property so taken, the funds of the borough raised by taxation shall be pledged as security.

Section 83. *Sections 2709, 2710, 2711 and 2712 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby repealed.

Sections 2709 to 2712, act of May 4, 1927 P. L. 519, repealed.

Section 84. Section 2713 of said act of May 4, 1927 (Pamphlet Laws 519) is hereby renumbered section 2709 and is reenacted and amended to read as follows:

Section 2713, act of May 4, 1927 P. L. 519, renumbered section 2709, reenacted and amended.

Section [2713] 2709. Proceedings.—The proceedings before the viewers for the assessment of damages *for property taken, injured or destroyed under this article* and the proceedings upon their report shall be as provided in article fourteen of this act.

Section 85. Sections 2714 and 2715 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby repealed.

Sections 2714 and 2715, act of May 4, 1927 P. L. 519, repealed.

Section 86. Sections 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724 and 2725 of said act are hereby renumbered, respectively, **Sections 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718 and 2719 and are hereby reenacted, revised and amended to read as follows:

Sections 2716 to 2725, act of May 4, 1927 P. L. 519, renumbered sections 2710 to 2719, reenacted, revised and amended.

Section [2716] 2710. Validation of Prior Acquisitions.—Whenever, prior to the first day of June, one thousand nine hundred and eleven, any borough acquired land outside its corporate limits for park purposes, such borough may own and possess such land for park purposes, and is authorized to lay out and maintain the same and to appropriate money to defray expenses incident to such work.

Section [2717] 2711. Plan of Parks and Playgrounds.—Every borough shall have a general plan of its parks and playgrounds, which plan shall be filed in the office of the engineer or other proper officer of the borough. All subdivisions of property thereafter made shall conform thereto. The location of parks and playgrounds, laid out and confirmed by the borough council, shall not afterwards be altered without the consent of council, and no map or plot of parks or playgrounds shall be entered or recorded in any public office of the county until approved by the borough council.

* "Section," in original.

** "Sections," omitted in original.

Section [2718] 2712. No Damages for Building Within Lines.—No person shall recover any damages for the taking for public use of any buildings or improvements of any kind placed or constructed upon or within the lines of any located park or playground after the same has been located by the borough council.

Section [2719] 2713. Creation of Recreation Board.—The authority to supervise and maintain [playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers] *recreation places*, may be vested in any existing body or board, or in a recreation board, as the borough council shall determine. The corporate authorities of any such borough may equip, operate, and maintain the [playgrounds, playfields, gymnasiums, swimming pools, bathing places, public baths, or indoor recreation centers] *recreation places*, as authorized by this act. Such authorities may, for the purpose of carrying out the provisions of this article, employ play leaders, recreation directors, supervisors, superintendents, or any other officers or employes, as they deem proper.

Section [2720] 2714. Composition of Board.—If the borough council shall determine that the power to equip, operate, and maintain [playgrounds, playfields, gymnasiums, public baths, bathing places, swimming pools, or recreation centers] *recreation places*, shall be exercised by a recreation board, they may establish in said borough such recreation board, which shall possess all the powers, and be subject to all the responsibilities, of the respective authorities under this article. Such board, when established, shall consist of five persons, and when established in a borough, having a school board, two of the members [shall] *may be members or appointees* of the school board. The *members of the board* shall be appointed by the [burgess] *council* of such borough, and shall serve for terms of five years, or until their successors are appointed, except that the members of such board, first appointed, shall be appointed for such term that the term of one member shall expire annually thereafter. Members of such board shall serve without pay. Women shall be eligible for appointment. Vacancies in such board, occurring otherwise than by expiration of term, shall be *filled* for the unexpired term [and shall be filled] in the same manner as original appointments.

Section [2721] 2715. Organization of Board; Employes.—The members of a recreation board, established pursuant to this article, shall elect their own chairman and secretary and select all other necessary officers, to serve for a period of one year, and may employ such persons as may be needed, as authorized by this [act]

article. Such board shall have power to adopt rules and regulations for the conduct of all business within its jurisdiction.

Section [2722] 2716. Joint Ownership and Maintenance.—Any two or more boroughs, or a borough with any city, or township or a borough with a county, may jointly acquire property for, and operate and maintain, any [playgrounds, playfields, gymnasiums, public baths, bathing places, swimming pools, or indoor recreation centers] *recreation places*. Any school district shall have power to join with any borough or boroughs in equipping, operating, and maintaining [playgrounds, playfields, gymnasiums, public baths, swimming pools, and indoor recreation centers] *recreation places*, and may appropriate money therefor.

Section [2723] 2717. Issue of Bonds.—The borough council may issue *general obligation* bonds for the purpose of acquiring lands or buildings for [playgrounds, playfields, gymnasiums, swimming pools, public baths, or indoor recreation centers] *recreation places*, and for the equipment thereof.

Section [2724] 2718. Maintenance and Tax Levy.—All expenses incurred in the operation of such [playgrounds, playfields, gymnasiums, swimming pools, public baths, bathing places, and indoor recreation centers] *recreation places*, established as herein provided, shall be payable from the treasury of such borough, or boroughs, township, city, county, or school district, as may be provided for by agreement of the corporate authorities. The local authorities of such borough [or school district] having power to appropriate money therein, may annually appropriate, and cause to be raised by taxation, such tax, not to exceed two mills on the dollar of the assessed valuation of taxable property in such borough [or school district], for the purpose of maintaining and operating [playgrounds, playfields, gymnasiums, public baths, bathing places, swimming pools and recreation centers] *recreation places*.

Section [2725] 2719. *Lease for School Athletics*.—Any borough maintaining a park or parks, may lease a part or all of any such park, suitable for athletic sports and athletic games, to any school board, or school athletic association organized by a school board, and organized for the purpose of conducting amateur athletic sports and games among pupils of the public school, and may permit such school board or school athletic association organized by a school board to charge admission to such sports and games and to deny persons refusing to pay admission access to the grounds where such sports or games are being conducted, if such sports and games are not conducted for individual profit. All such

leases heretofore made by any borough or park or recreation board acting for a borough are hereby ratified, confirmed and made valid.

Sections 2730 to 2757, act of May 4, 1927 P. L. 519, reenacted, revised and amended.

Section 87. Sections 2730 to 2757 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

(b) Shade Trees

1. Shade Tree Commission:

Section 2730. Shade Tree Commission.—[Borough] *A borough by ordinance* may establish a commission to be known as the Shade Tree Commission. [of such borough.]

Section 2731. Composition of Commission.—The commission shall be composed of three [freeholders] *residents* of the borough, who shall be appointed by the burgess, and shall serve without compensation.

Whenever a shade tree commission is established by any borough, the burgess shall appoint [three freeholders] one *member* for a term of three years, one for a term of four years, and one for a term of five years.

On the expiration of the term of any commissioner, a successor shall be appointed by the burgess to serve for a term of five years.

Vacancies in the office of commissioner shall be filled by the burgess for the unexpired term.

Section 2732. Powers May Be Vested in Park Commission.—Whenever in any borough there exists a commission for the care of public parks, the council may *by ordinance, [accept the provisions of this article so far as it relates to the subject of the shade tree commission, and thereafter] *confer on* the park commission [shall have] all the powers and [be subject to] all the duties prescribed by this article for the shade tree commission.

Section 2733. Powers of Commission.—The commission shall have exclusive custody and control of the shade trees in the borough, and is authorized to plant, remove, maintain, and protect shade trees on the public highways in the borough.

The commission may employ and pay such superintendents, engineers, foresters, tree-wardens, or other assistants, as the proper performance of the duties devolving upon it shall require, and may make, publish, and enforce regulations for the care and protection of the shade trees of the borough. No such regulation shall be in force until it has been approved by the council, and until it has been published at least twice in [one or] *not more than two newspapers of general circulation published in the borough, and if no newspapers are*

* "be," in original.

published in the borough then in such newspapers circulating in the borough.

Section 2734. Report of Commission.—The shade tree commission shall annually report in full to the burgess its transactions and expenses for the last fiscal year of the borough. The park commission [in boroughs accepting this article] may incorporate such transactions and expenses in its regular report to council.

Section 2735. Notices by Commission.—Whenever any shade tree commission, or park commission [in boroughs accepting this article] proposes to plant, transplant, or remove shade trees on any [highway] *street*, notice of the time and place of the meeting at which such work is to be considered shall be given in [one or more] *not more than two* newspapers published in the borough, *and if no such newspapers are published in the borough, then in such newspapers circulating in the borough* once a week for two weeks immediately preceding the time of the meeting. The notice shall specify in detail the [highways] *streets* or portions thereof upon which trees are proposed to be so planted, replanted, or removed.

Section 2736. Payment by Owners.—The cost of planting, transplanting, or removing any shade trees in the [highways] *streets* of the borough, of the necessary and suitable guards, curbing, or grading for the protection thereof, and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work, shall be paid by the owner of the real estate in front of whose property the work is done.

The amount each [freeholder] *owner* is to pay shall be ascertained and certified by the commission to council and to the borough treasurer.

Section 2737. Assessments; Liens.—Upon the filing of the certificate with the council, the secretary of the borough shall cause thirty days' written notice to be given to the persons against whose property an assessment has been made. The notice shall state the amount of the assessment, and the time and place of payment, and shall be accompanied with a copy of the certificate.

The amount assessed against the real estate shall be a lien from the time of the filing of the certificate with the council, and if not paid within the time designated in the notice, a claim may be filed and collected by the borough solicitor in the same manner as municipal claims are filed and collected.

Section 2738. Maintenance by Borough; Tax Levy.—The cost and expenses of caring for such trees after having been planted and the expense of publishing the no-

tice [provided in the preceding section] *hereinbefore provided for* shall be paid by the borough.

The needed amount shall each year be certified by the commissioners to the borough council and shall be drawn against, as required by the commission, in the same manner as money appropriated for borough purposes.

The borough council may levy a general tax, not to exceed the sum of one-tenth of one mill on the dollar on the assessed valuation of the property in said borough, for the purpose of defraying the cost and expenses of caring for such shade trees and the expense of publishing the notice [provided in the preceding section of this article]; or it may provide for the expense of the caring for trees already planted and of publishing the notice [required by the preceding section of this article] by appropriations equal to the amount certified to be required by the commission.

Section 2739. Penalties.—The commission, *to the extent as may be provided by ordinance of the borough*, may assess penalties for the violation of its regulations and of this article so far *as it relates to shade trees. Any penalty so assessed shall be a lien upon the real estate of the offender and may be collected as municipal claims are collected.

All penalties or assessments imposed under this article shall be paid to the borough treasurer, to be placed to the credit of the commission, subject to be drawn upon by the commission for the purposes of the preceding sections of this article.

2. Power of Boroughs as to Shade Trees:

Section 2745. Ordinances to Require Planting and Replanting.—Boroughs may, by ordinance, upon the petition of a majority of the property owners upon any public street thereof, require the planting and replanting of suitable shade trees along and upon the sides of such streets, upon such alignment and at such points as may be *designated* by such ordinance [designated,] by the owners of property abutting the street at the points designated. This section does not authorize boroughs to require the planting or replanting of trees at any point which may interfere with the necessary or reasonable use of any street or abutting property or unreasonably interfere with any business conducted thereon.

Section 2746. Power of Borough Where Owners Fail to Comply.—On failure of any owner, after reasonable notice, to comply with the terms of any such ordinance, the borough may cause such trees to be planted or replanted at the expense of the borough, and thereupon,

* "at," in original.

in the name of the borough, collect the cost of such work from the owners in default, as debts of like amount are by law *collectible.

(c) Forests

Section 2750. Acquisition of Land for Forest Purposes.—Boroughs may acquire, by purchase, gift, or lease, and hold tracts of land covered with forest or tree growth or suitable for the growth of trees, and administer the same, under the direction of the [commissioner of forestry] *Department of Forests and Waters*, in accordance with the practices and principles of scientific forestry, for the benefit of the borough. Such tracts may be of any size suitable for the purpose and may be located within or without the borough limits.

Section 2751. Approval of [Secretary] *Department of Forests and Waters*.—Before the passage of any ordinance for the acquisition of land to be used as municipal forests, the burgess shall submit to the [Secretary] *Department of Forests and Waters*, and secure [his] *its* approval of, the area and location of such land.

Section 2752. Ordinance Declaring Intention.—Whenever the council of any borough deems it expedient to acquire any lands for the purposes of municipal forests, it shall so declare in an ordinance wherein shall be set forth all facts and conditions relating to the proposed action. [which proposed ordinance shall be advertised once a week for three weeks prior to its passage.]

Section 2753. Appropriations of Money.—All money necessary for the purchase of such tracts shall be appropriated in the same manner as appropriations for borough purposes, and such funds may be provided from the current revenue or by the proceeds of a sale of *general obligation* bonds in accordance with existing law.

Section 2754. Rules and Regulations.—Upon the acquisition of any municipal forests or lands suitable [for such] *therefor*, the council shall notify the [Secretary] *Department of Forests and Waters*, [who] *which* shall make such rules for the government and proper administration of the same as may be *deemed* necessary, and the council shall publish such rules, declare the uses of the forest in accordance with the intent of this article, and make such provision for its administration, maintenance, protection, and development as shall be necessary or expedient. The rules governing the administration of such forests shall have for their main purpose the producing of a continuing borough revenue by the sale of forest products.

* "collected," in original.

Section 2755. Appropriations and Revenues.—All moneys necessary to be expended for the administration, maintenance, protection, and development of such forests, shall be appropriated and applied as is now done for borough purposes; all revenue and emoluments arising from such forests shall be paid into the borough treasury to be used for general borough purposes.

Section 2756. Use of Forests.—Municipal forests may be used by the public as general outing or recreation grounds subject to the rules of the *Department of Forests and Waters* governing their administration as municipal forests and rules adopted by the council of the borough not inconsistent with law or the regulations of the department.

Section 2757. Ordinance of Sale.—Whenever the council of any borough deems it expedient to [alienate] *sell or lease* any municipal forest or part thereof, or *products therefrom*, it shall so declare in an ordinance wherein shall be set forth all the facts and conditions relating to the proposed action [which proposed ordinance shall be advertised once a week for three weeks prior to its passage]. No ordinance *for the sale or lease of a municipal forest, or part thereof*, shall be effective in legalizing such [alienation] *sale or lease* until it has been approved by a majority vote of the people at the next ensuing *general, municipal or primary* election.

Article XXVIII
and sections
2801 to 2817, act
of May 4, 1927
P. L. 519, re-
enacted, revised
and amended.

Section 88. Article XXVIII and sections 2801 to 2817 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XXVIII

BURIAL GROUNDS

Section 2801. Power of Borough.—Boroughs may prohibit within their limits, or within any described territory within such limits, the burial or interment of deceased persons, and may regulate the depth of graves.

Section 2802. *Management By Commission; Transfer from Borough to Company.*—When the title and management of any burial ground is vested in a borough, the council of such borough, *may in its discretion, vest the care, management and operation of such burial ground in a commission of three citizens to be appointed by the borough council, such care, management and operation, and the terms of the commissioners to be as provided in the ordinance of the council.* [upon] *Upon* petition of ten lot owners in such burial ground, *the council may, in its discretion, transfer such burial ground and the management thereof, to an incorporated cemetery company in the manner hereinafter provided.*

Section 2803. Vesting Title.—Upon the presentation to council of such petition, the council may pass an ordinance declaring that, upon the acceptance of the provisions of such ordinance by the incorporated cemetery company, filed with the borough secretary, the title and control of such burial ground shall vest in such incorporated cemetery companies.

Section 2804. [Acceptance of Corporation.—The secretary of the borough shall record the acceptance of any such incorporated cemetery company in the ordinance book of the borough, and a] *Recording of Ordinance and Acceptance*.—A copy of the ordinance and the acceptance thereof, certified by the burgess and secretary of the borough, shall be recorded in the office of the recorder of deeds of the county.

Section 2805. Orders of Court as to Neglected Cemeteries.—Authority is vested in the court of quarter sessions to make such orders for the regulation of burial grounds, situated in and adjacent to boroughs, as the public good shall require; and when any burial ground shall become so neglected as, in the opinion of the court, to become a public nuisance, the court may direct the removal of the dead therefrom by the borough authorities to some other burial ground.

Section 2806. Transfer from Company to Borough.—Upon the petition of any incorporated cemetery company and a majority of the taxables of any borough, the court of quarter sessions may authorize the transfer of any cemetery to the authorities of any borough in which such cemetery may be located or be adjacent thereto.

Section 2807. Powers of *Borough.—Such transfer shall be made without cost to the borough and upon being made the borough authorities shall exercise the powers and privileges of such incorporated company, and may purchase lands within or beyond the borough limits, not to exceed thirty acres, for the extension of such cemetery, and may raise the means to pay for the same, by the sale of lots or otherwise, but in no event by taxation; they may lay out lots so purchased and alter the original plot of such cemetery, and may dispose of such grounds in the same manner as such incorporated company could have done.

Section 2808. Deeds to Lots.—A deed for any lot, made by the burgess, shall be of the same validity as the deed of such incorporated cemetery company; and the burgess is authorized to make deeds to those who theretofore purchased lots, but have not been furnished with deeds by the cemetery company.

Section 2809. Removing Bodies to Alter Plots.—In altering the plot of any such cemetery, the bodies may

* "Boroughs," in original.

be removed and reinterred in a suitable place, but without cost to surviving relatives [or friends].

Section 2810. Removal of Bodies to Other Cemeteries.—Whenever any burial ground privately owned and in charge of no person [or persons,] or any burial ground in charge of any religious society or church, [or in charge of no one,] has ceased to be used for interments, or has become so neglected as to become a public nuisance; or when such [cemetery] *burial ground* hinders the improvements and progressive interests of any borough, or is desired by the borough for any free public library building, or for any other public purpose—the court of quarter sessions of the county, upon petition of the managers of such [cemetery] *burial ground*; or upon the petition of fifty residents in the vicinity in case such [cemetery] *burial ground* is not in charge of anyone, setting forth that the improvements and progressive interests of such borough are hampered and the welfare of such borough is injured; or upon the petition of such borough setting forth that such [cemetery] *burial ground* is desired by the borough for the erection thereon of a free public library building, or for use as recreation [*centres or municipal playgrounds] *places*, or the opening, laying out or extension through said land of any street [or highway], or for any other public purpose; and after three weeks of advertisement, may direct the removal of the remains of the dead from such burial ground.

Section 2811. Applications for Removal.—No application, as provided in the preceding section, shall be made by the managers of any cemetery, in charge of any society or church, except in pursuance of the wishes of a majority of the members of such society or church, expressed at a meeting held for that purpose after two weeks' public notice.

Section 2812. Removals; How Made.—Such removal shall be made by the managers of such cemetery, or by the borough when such cemetery is in charge of no one, in a careful manner, at the expense of the party making such removal, to such other burial ground as may be selected; or if so desired by relatives or friends, to some cemetery in the immediate vicinity.

Section 2813. Notice of Removal.—The parties making such removal shall publish, for two successive weeks, in two daily or weekly newspapers of the borough or [county] *circulating in the borough*, a notice declaring their intention to remove such remains.

Section 2814. Removal by Relatives and Friends.—Relatives and friends of such dead may remove such remains, at any time during such proceedings at their own expense, before removal by the managers.

* "centers," in original.

Section 2815. Care in Removal.—All bodies, when so removed, shall be placed in separate caskets and graves, and the markers placed by the remains of such bodies shall be taken by the *persons authorized to make such removal, and placed as near as can be in the same relative position as before removal.

Section 2816. Right to Use Property From Which Bodies Removed.—After the removal of all dead bodies from such burial grounds, the said land shall cease to be a cemetery or burial ground for all and any purpose whatsoever; and may be acquired by the municipality or school district thereof, as other lands are acquired for municipal or school purposes.

Section 2817. Purchase of Plots for Burial of Deceased Service Men.—Any borough may purchase plots of ground, in any cemetery or burial ground within its limits, for the interment of such deceased [service men] *members of the armed forces*, as have heretofore died or shall hereafter die within such borough, or shall die beyond such borough and shall have a legal residence within such borough at the time of their death, and whose bodies are entitled to be buried by the county under the provisions of [the act, approved the tenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, **four hundred and seventy-three), entitled "An act providing for the burial of certain persons who are, have been, or shall be soldiers, sailors, or marines, designated as 'deceased service men'; defining the term 'deceased service ***man'; and authorizing county commissioners to provide headstones, markers, and burial plots for such ****deceased service men at the expense of the county in which they shall die or have a legal residence at the time of their death," or any reenactment thereof] *existing law*. Such plots of ground shall be paid for out of the treasury of such borough.

Section 89. Article XXIX and sections 2901, 2905, 2910, 2912, 2915, 2920, 2921, 2922 and 2923 of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

ARTICLE XXIX

LICENSES AND LICENSE FEES

(a) Auctioneers

Section 2901. Boroughs may regulate and license persons and firms engaged in the business of auctioneering within the limits of any such borough, and fix the amount to be paid for such license. Such license shall be in addition to all other licenses required by law. The

* "person," in original.
 ** "473," in original.
 *** "men," in original.
 **** "deceased," in original.

Article XXIX
 and sections
 2901, 2905, 2910,
 2912, 2915, 2920
 to 2923, act of
 May 4, 1927
 P. L. 519, re-
 enacted, revised
 and amended.

LAWS OF PENNSYLVANIA,

provisions of this section shall not apply, for a space of three months, to persons or firms regularly engaged in business in boroughs, who may desire to reduce their stock or retire from business.

(b) Foreign Dealers

Section 2905. Boroughs may license foreign dealers in merchandise, or their agents, having no permanent place of business in such boroughs, but temporarily engaged in selling merchandise, either by wholesale or by retail. Such license shall not exceed the amount imposed on resident merchants engaged in like business. The provisions of this section shall not apply to sales by sample.

(c) Transient Retail Merchants

Section 2910. Licensing Transient Retail Business.—Every borough shall have power, by ordinance, to regulate and license each and every transient retail business, within such borough, for the sale of goods, wares, [and/] or merchandise, and to prohibit the commencement or doing of any such business until or unless the license required by such ordinance has been procured from the proper authorities by the person, firm, or corporation desiring to commence such transient retail business, and to enforce such ordinances by penalties not exceeding three hundred dollars [and/] or by other appropriate means. The amount of any such license shall not exceed two hundred dollars for each month, or fractional part thereof, during which any such sale is continued.

Nothing contained in this act shall be construed to apply (1) to farmers selling their own produce, (2) to the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose, or (3) to any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk or milk products.

Section 2912. Commonwealth Licenses Saved.—Nothing contained in [the two preceding sections] *section 2910* shall be construed to relieve any person, partnership, or corporation from the duty of taking out a license, or from the payment of any license tax imposed or authorized by any other statute of this Commonwealth.

(d) Vehicles

Section 2915. *License of Vehicles as Carriers*.—Boroughs may enact ordinances establishing reasonable rates of license fees on all vehicles used in carrying persons or property for pay; and may regulate the operation

[and compensation] of such vehicles within the limits of such boroughs [or between any such borough or other points].

(e) Restrictions

Section 2920. Farmers.—It shall be unlawful for any borough to levy or collect any license fee from any person who sells, in or about the streets of any borough, vegetables or animal products raised on his or her own land.

Section 2921. Persons Taking Orders.—It shall be unlawful for any borough to levy any license fee or mercantile tax upon any persons taking orders for merchandise by sample, from dealers or merchants, for individuals or companies who pay a license or mercantile tax at their chief places of business. Nothing in this section shall authorize any person to sell by retail to others than dealers or merchants.

Section 2922. Equality of Residents and Non-Residents.—It shall be unlawful for any borough to impose, by ordinance, or exact or collect under the provisions of any ordinance heretofore or hereafter enacted, any license tax or fee upon or from any manufacturer, or the agent, representative or employe of any manufacturer who is a resident of the Commonwealth, for soliciting orders for, or for selling, any goods, merchandise, or wares manufactured within this Commonwealth, that is not or cannot legally be imposed upon, or exacted, or collected from, any manufacturer or dealer, or the agent, representative, or employe of any manufacturer, who is a non-resident of the Commonwealth, for soliciting orders for or for selling any goods, merchandise, or wares manufactured without the Commonwealth.

Section 2923. Insurance Business.—It shall be unlawful for any borough to impose or collect any license fee upon insurance companies, or their agents, or insurance brokers, authorized to transact business under the laws of the Commonwealth.

Sections 90. Article XXX and sections 3001 to 3006 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Article XXX
and sections
3001 to 3006, act
of May 4, 1927
P. L. 519, re-
enacted, revised
and amended.

ARTICLE XXX

REAL ESTATE REGISTRY

Section 3001. Real Estate Registry Established.—For the purpose of procuring accurate information in reference to the ownership of real estate the council of each borough may provide by ordinance for a registry thereof.

Section 3002. Duties of Borough Secretary.—The secretary of [such] *any* borough, in which [such] *a* registry shall be established, shall, under the direction of the council, cause to be made all necessary books, maps, and plans, as will show the situation and dimensions of each property thereon; which books, maps, or plans shall be so prepared as to show the location and the name of the owner or owners thereof, with blank spaces for the name of the owner of each lot, and with *provision for the names of future owners and the dates of future transfers of title.

Section 3003. Access to Public Records.—For the purpose of establishing such registry, the secretary shall have access without charge to any public records where-in the necessary information may be obtainable, and may also cause a search to be made in other places for any muniments or evidences of title, not reported to him as herein provided, and requisite for the completion of such books, maps, or plans.

Section 3004. Keeping of Records.—[Said] *The registry*, books, maps, and plans shall be carefully preserved, and shall be so kept, by additions from time to time, as to show the ownership of every lot, or piece of real estate, or subdivision thereof, within the limits of [such] *the* borough, with the succeeding transmissions of title from the time of the commencement of such plans, but nothing contained therein shall, at any time, invalidate any municipal or tax claim by reason of the fact that the same is not assessed or levied against the registered owner.

Section 3005. Duties of Owners of Real Estate.—It shall be the duty of all owners of real estate within the limits of [such] *the* borough, within one month after the date of the approval of any ordinance establishing such registry, and of every subsequent purchaser, devisee, or person, within one month after acquiring title in any manner whatsoever to any real estate in such borough, to furnish to the said secretary, at his office, descriptions of their respective properties upon blanks to be furnished by the borough, and at the same time to present their conveyances to be stamped as evidence of the registry thereof.

[Any person neglecting or refusing to comply with the provisions of this section, for a period of thirty days after public notice, shall be liable to a penalty of five dollars, to be recovered, with costs of suit, in the name and for the use of the borough as penalties of like amount are now recoverable.]

Section 3006. [Deeds Not to Be Recorded Until Registered.—] *Sheriff's Deeds; Registry Required Before Recording.*—The sheriffs of the respective counties

* "provisions," in original.

in which any such borough is situated shall present for registry the deeds of all properties within such borough sold by them at judicial sales; and the [prothonotaries and] recorders of deeds of such counties shall not admit for record any deed of any property in such borough, bearing dates subsequent to the approval of an ordinance providing for the establishment of such registry, unless *the same* shall first have been duly stamped as herein provided.

Section 91. Article XXXI and sections 3101 to 3111 inclusive of said act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended to read as follows:

Article XXXI
and sections
3101 to 3111, act
of May 4, 1927
P. L. 519, re-
enacted, revised
and amended.

ARTICLE XXXI

ENFORCEMENT OF ORDINANCES

Section 3101. Recovery of Fines, Penalties and Costs.—Fines, penalties, and costs made payable by this act, or imposed under [the] *any* *ordinances of [any] *the* borough, shall be recoverable, before the burgess or any justice of the peace of the borough, in the same manner as debts not exceeding three hundred dollars are recoverable, and when so recovered shall be forthwith paid to the treasurer of the borough.

Section 3102. Arrests by Policemen for Violation of Ordinances.—[Policemen of the several boroughs may, without warrant and upon view, arrest and commit for hearing, any person guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness; or that may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of citizens, or violating any of the ordinances of such borough for the violation of which a penalty is imposed.] Persons [so] arrested by *policemen for violation of any ordinance of the borough* shall be entitled to give bail for their appearance, according to the practice in cases of summary convictions.

Section 3103. Commencement of Proceedings.—All proceedings for the violation of borough ordinances and for the collection of fines and penalties imposed thereby, may be commenced by warrant or by summons at the discretion of the burgess or justice of the peace before whom the proceedings are commenced, but no warrant shall be issued except on oath or affirmation specifying the ordinance for the violation of which the same is issued, and all process may be directed to and be served by any policeman of the borough, who may execute the same anywhere within the Commonwealth.

Section 3104. Return of Warrants.—Warrants shall be returnable forthwith, and upon such return, like pro-

* "ordinance," in original.

ceedings shall be had as in cases of summary conviction, with the same right of appeal from any final judgment.

Section 3105. Arrests on View; Complaints.—When any person is arrested on view, a complaint, on oath or affirmation, shall be immediately made, whereupon like proceedings shall be had as provided in the preceding section.

Section 3106. Commitments Pending Hearings.—Any person arrested for the violation of a borough ordinance may be committed to the borough lockup, pending a hearing or trial, but in case there is no suitable lockup in which to detain prisoners the person arrested may be committed to the county jail.

Section 3107. Commitments After Hearings.—Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed [to the borough lockup, for a period not exceeding five days, or] to the county jail or workhouse for a period not exceeding thirty days.

Section 3108. Collection of Penalties.—No fine or penalty shall exceed one hundred dollars for any single violation of any ordinance. In case the defendant has goods or property of any kind whatsoever, out of which the judgment and costs can be collected by execution or other process the [plaintiff in the action] *borough* may elect to collect the judgment and costs by such proceedings.

Section 3109. Commitment of Vagrants.—When any person shall have been arrested, by authority of the burgess or justice of the peace of any borough, charged with being a vagrant or tramp, and having refused to pay the fine imposed for such offense the burgess or justice of the peace shall have authority to [commit such person to the lockup in such borough for a term not exceeding five days, or] compel such person to work upon the public works or streets of the borough for a period of time not exceeding one day for each dollar of fine imposed.

Section 3110. Appeals by Vagrants.—Any such defendant, as provided in the preceding section, may appeal to the court of quarter sessions upon entering into recognizance with at least one surety in double the amount of the fine and costs for his appearance in court, and the offense shall be prosecuted in court as in the case of misdemeanors.

Section 3111. Payment of Costs by Borough.—When a prisoner shall be committed to any county jail or [prison] *workhouse*, either for the non-payment of a fine

or penalty imposed for the violation of any borough ordinance, or while awaiting a hearing upon any charge for the violation of any borough ordinance, the costs of the proceedings and the expenses of maintaining such prisoner during his confinement, shall be paid by the borough, and the county shall not be liable [to the sheriff] for any maintenance or to any person for any costs in such proceedings.

Section 92. Said act of May 4, 1927 (Pamphlet Laws 519) is hereby amended by adding thereto a new Article XXXII and sections 3201 to 3214 inclusive as follows:

Act of May 4,
1927 P. L. 519,
amended by add-
ing new Article
XXXII and sec-
tions 3201 to
3214.

ARTICLE XXXII

BOARD OF HEALTH

Section 3201. Establishment of Board of Health; Health Officers.—The administration of the health laws in boroughs shall be enforced by a board of health, or by a health officer or officers, as the case may be, appointed by the borough council.

Where the borough council elects to appoint a health officer or officers the said health officer or officers shall have the same powers and duties, and exercise the same authority, as is prescribed for boards of health in boroughs. All health officers, whether appointed by boards of health or by the borough council shall have had some experience or training in public health work in accordance with rules and regulations established by the Advisory Health Board of the State Department of Health. Such health officers shall not enter upon the performance of their duties until they are certified so to do by the State Department of Health.

Section 3202. Members of Board of Health.—Where the borough council decides to appoint a board of health said board shall be composed of five members, at least one of whom shall be a reputable physician of not less than two years experience in the practice of his profession. The members of the board shall be appointed by the borough council. At the first appointment one member shall be appointed to serve for one year, one for two years, one for three years, one for four years and one for five years; and thereafter one member shall, in like manner, be appointed each year to serve for five years. The members of the board of health shall serve without compensation, but if any member of the board shall be elected to the office of secretary, he shall be entitled to receive a salary fixed by the board for that office.

Section 3203. Oaths of Members, Secretary and Health Officer.—The members of the board shall severally take and subscribe to the oath prescribed for borough councilmen; and shall annually organize by electing a

president from among the members of the board, a secretary who may or may not be a member of the board, and a health officer who shall not be a member of the board. The secretary and the health officer shall receive such salary as may be fixed by the board, and ratified by the borough council and shall serve for a period of one year, or until such time thereafter as their successors may be elected and qualified. They shall severally give bond to the borough in such sums as may be fixed by ordinance, for the faithful discharge of their duties, and shall also take and subscribe to the oath required of members of the board.

Section 3204. Duties of Secretary.—The secretary of the board shall keep the minutes of the proceedings of the board; shall keep accurate accounts of the expenditures of the board; shall draw all requisitions for the payment of moneys on account of the board of health from appropriations made by the council to the board, and shall present the same to the president of the board for his approval; shall render statements of the expenditures to the board at each stated meeting, or as frequently as the board may require; shall prepare, under the directions of the board, the annual report to the borough council together with the estimate of appropriation needed for the ensuing year. He shall report to the State Department of Health at the end of each week, and for the fraction of each week occurring at the end of month, the cases of communicable disease reported to the board of health, on the form provided for that purpose by such department; and shall also make an annual report to such department; and shall make such other reports and perform such other duties as the board may require.

Section 3205. Powers and Duties of Health Officer.—It shall be the duty of the health officer to attend all stated and special meetings of the board of health, and at all times be ready and available for the prompt performance of his official duties. He shall placard and quarantine all premises upon which cases of communicable disease exist, which have been reported to the board of health or of which he or the board of health may have knowledge, which are required by law, or by regulation of the State Department of Health or of the local board of health, to be placarded and quarantined; and shall disinfect such premises upon the expiration of the quarantine period, and the recovery of the last person therein suffering from such disease. He shall serve written notice on teachers and persons in charge of public, parochial, Sunday, and other schools, requiring the exclusion from school of children who are suffering from or who reside in the same premises with other

persons who are suffering from communicable diseases; and shall make sanitary inspections, and shall execute the orders of the board of health and shall in the performance of his duties have the power and authority of a policeman.

Section 3206. Powers of Board of Health.—The board of health shall have the power, and it shall be its duty to enforce the laws of the Commonwealth, the regulations of the State Department of Health, and to make and enforce such additional rules and regulations to prevent the introduction and spread of infectious or contagious diseases, by the regulation of intercourse with infected places, by the separation of infected persons, and persons who shall have been exposed to any infectious or contagious disease, and by abating and removing all nuisances which the board shall deem prejudicial to the public health; to mark infected houses or places, to prescribe rules for the construction and maintenance of house-drains, wash-pipes, soil-pipes and cess-pools; and to make all such other rules and regulations as shall be deemed necessary for the preservation of the public health. The board shall also have power, with the consent of council in case of a prevalence of any contagious or infectious disease to establish one or more emergency hospitals, and to make provisions and regulations for the maintenance and management of the same.

The board shall also have the power to make, enforce, and cause to be published, all necessary rules and regulations not inconsistent with law, for carrying into effect the powers and functions with which they are invested by law, and the power and authority relating to the public health conferred on the boroughs. Such rules and regulations, when approved by the borough council and burgess, and when advertised in the same manner as ordinances, shall have the force of ordinances of the borough, and all penalties or punishment prescribed for the violation thereof, as well as the expenses actually and necessarily incurred in carrying such rules and regulations into effect, shall be recoverable, for the use of the borough in the same manner as penalties for violation of the ordinances of the borough and subject to the like limitations as to the amount thereof.

Section 3207. Entry Upon Premises.—The board of health shall have the power as a body, or by committee as well as the health officer, together with their assistants, subordinates, and workmen, under and by order of the said board, to enter at any time upon any premises in the borough upon which there is *suspected to be any in-

* "suspected," in original.

fectious or contagious disease, or nuisance detrimental to the public health for the purpose of examining and abating the same.

Section 3208. Inspections; Abatement of Nuisances.—The board of health may inspect house drains, waste and soil-pipes, cesspools, water-closets, slaughter-houses, hog-pens, stables, stable-yards, and any conditions or places whatsoever, in the borough which may constitute a nuisance or a menace to public health; and whenever any condition or place in the borough is found by the board to be a nuisance or a menace to the health of the people of the borough it shall issue a written order of abatement, directed to the owner, or agent of the owner, of the premises, stating that the conditions specified therein constitute a nuisance or a menace to health, and ordering an abatement thereof within such time as may be specified by them in such order. In case such order of abatement is not obeyed within the time specified therein, the board shall thereupon issue a further written order to the health officer, directing him to remove or abate the same; which order shall be executed by him and his subordinates and workmen, and the expense thereof shall be recoverable from the owner of the premises upon or from which the nuisance or menace to health is abated or removed, in the same manner as debts of like character are now collected by law; or the said board of health may proceed to enforce such other remedy, or inflict such penalty, as may be provided by ordinance of the borough.

Section 3209. Estimates of Expenditures; Report.—It shall be the duty of the board of health or appointed health officer or officers to submit annually, to the council before the commencement of the fiscal year, an estimate of the probable expenditures of the board during the ensuing year; and council shall then proceed to make such appropriations as may be deemed necessary. The board of health, health officer or officers, shall, in the month of January of each year, submit a report, in writing, to council of its appropriation and expenditures for the preceding year, together with such other information on subjects relative to the sanitary conditions or requirements of the borough as may be necessary, and council shall publish the same in their official journal.

Section 3210. Cooperation With Other Units.—Any borough may cooperate with the county, or with any city, borough or township as well as with the State Department of Health, in the administration and enforcement of health laws.

Section 3211. Powers of Secretary of Health.—Whenever, in the opinion of the Secretary of Health, conditions found by him to exist in any borough shall constitute a menace to the lives and health of people living outside the corporate limits of such borough or if it be known to him that any borough is without an existing or efficient board of health, he or his agents may enter, and take full charge of and administer the health laws, regulations, and ordinances in such borough; and may continue in charge thereof until he shall decide that a competent and efficient board of health has been appointed and qualified for such borough and is ready, able and willing to assume and carry into effect the duties imposed upon it by law.

Section 3212. Expenses of Board or Secretary of Health.—All expenses incurred by any local board of health, its officers or employes in the performance of the duties imposed upon it by law, and all expenses incurred by the Secretary of Health or his agents in accordance with the provisions of this article shall be paid by the borough wherein such duties are performed, in the same manner as other expenses of such borough are paid.

Section 3213. Failure to Pay Expenses Incurred by State Secretary.—Whenever expenses incurred by the Secretary of Health or his agents in the administration of health laws in any borough in accordance with the provisions of this article, shall remain unpaid by said borough for a period over three months after a statement of such expense has been rendered by him to such borough and demand for payment by him made, he shall, with the approval of the Governor, institute, in the name of the Commonwealth as plaintiff, an action of assumpsit against such borough for the collection of such expense from the borough in the same manner as debts of like amount are collected by law: Provided, however, That upon the trial of any such action of assumpsit, the reasonableness of the expenditures made by the Secretary of Health shall be submitted to the jury for its determination.

Section 3214. Disposition of Collected Funds.—All expenses incurred by the Secretary of Health in the administration of health laws in any borough, when paid to him by such borough, or when collected by him, shall be returned by him to the State Treasurer, who shall credit the amount so received to the appropriation made to the Department of Health.

Section 93. Said act of May 4, 1927 (Pamphlet Laws 519) is hereby amended by adding thereto a new Article XXXIII and sections 3301 to 3310 inclusive as follows:

Act of May 4,
1927 P. L. 519,
amended by add-
ing Article
XXXIII and sec-
tions 3301 to
3310.

ARTICLE XXXIII

ZONING

Section 3301. Grant of Power.—For the purpose of promoting health, safety, morals or the general welfare, councils of boroughs are hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, their construction, alteration, extension, repair, maintenance, and all facilities and services in or about such buildings and structures and percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and may also establish and maintain building lines and set back building lines upon any or all public streets.

Section 3302. Districts; Procedure.—(a) For any or all said purposes, the council may divide the borough into districts, of such number, shape, and area as may be deemed best suited to carry out the purpose of this article. Within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in another district.

(b) The council shall provide by ordinance the manner in which the boundaries of such districts shall be determined and established and from time to time amended or changed. However no such boundary shall become effective until after public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in such borough.

Section 3303. Purpose in View.—Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets, to secure safety from fire panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the borough.

Section 3304. The council shall exercise the powers granted in section 3301 hereby by ordinance which shall provide for effecting of its purposes and for the enforcement of the regulations and restrictions established therein by reasonable fines and by the instituting appropriate actions or proceedings at law or in equity. At least one week and not more than three weeks prior to the presentation of the proposed ordinance an information notice of intention to consider such proposed ordinance and a brief summary setting forth the principal provisions of the proposed ordinance in such reasonable detail as will give adequate notice of its contents, pursuant to a uniform form which shall be prepared or approved by the Department of Internal Affairs, and a reference to the place or places within the borough where copies of the proposed ordinance may be examined shall be published in the manner provided by law for the publication of ordinances.

The provisions of the ordinance need not be advertised or recorded as in other cases. Provisions respecting the construction, alteration, extension, repair, care, and maintenance of buildings and structures may be supplied by reference to a standard building code approved by the Department of Internal Affairs, or to parts thereof determined by the council or such provisions of the ordinance may be supplied by reference to a typed or printed building code prepared under the direction of, or accepted by, the council, or such provisions may consist of a standard code approved as aforesaid or parts thereof and also further provisions typed or printed as aforesaid. Copies of the provisions of the ordinance thus adopted by reference shall be made available to any interested party at the cost thereof, or may be furnished or loaned without charge and a copy of such provisions of the ordinance whether by reference to a standard building code, or a combination of them shall be attached to the ordinance book with the same force and effect as if duly recorded therein.

The procedure set forth relating to the adoption of the ordinance may likewise be adopted in amending, supplementing or repealing any of the provisions of the ordinance.

Section 3305. Changes.—Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change, signed by the owners of twenty per cent or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the rear thereof extending one hundred feet therefrom, or of those directly

opposite thereto, extending one hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of council.

Section 3306. Zoning Commission.—In order to avail itself of the powers conferred by this act, the council shall appoint a commission of five citizens, to be known as the Zoning Commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such council shall not hold its public hearings or take action until it has received the final report of such commission. Where a borough planning commission already exists it may be appointed as the zoning commission.

Section 3307. Board of Adjustment.—The council may appoint a board of adjustment, and, in the regulations and restrictions adopted pursuant to the authority of this article may provide that said board of adjustment may in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

The board of adjustment shall consist of three members, one of whom shall be designated to serve until the first day of January following the adoption of the zoning ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms, to serve three years. The members of the board shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its

examinations and other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer of the borough affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto.

(2) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above mentioned powers, such board may in conformity with the provisions of this article reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as in its opinion ought to be made. Notice of such decision shall forthwith be given to all parties in interest.

Any person aggrieved by any decision of the board of adjustment, or any taxpayer or any officer of the borough, may within thirty days after such decision of the board appeal to the court of common pleas of the county by petition, duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and specifying the grounds upon which he relies.

Upon presentation of the petition in proper form, the court shall forthwith issue a writ of certiorari directed to the board of adjustment commanding it within twenty (20) days after the service thereof to certify to the court under the certificate of its chairman, its entire record in the matter in which the appeal has been taken. The prothonotary shall serve the board of adjustment by registered mail with a copy of the writ and a copy of the appeal petition. On or before the return day of the writ the board of adjustment shall file the entire record with the writ in the office of the prothonotary.

Any time during the pendency of an appeal, upon application of the appellant and upon due notice to the board of adjustment, the court, or a judge thereof, may after hearing grant an order of supersedeas upon such terms and conditions, including the filing of security, as the court or the judge thereof may prescribe.

If upon the hearing of the appeal it shall appear to the court that testimony is necessary for the proper disposition of the appeal, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court, with his findings of facts and conclusions of law. The court may reverse, or affirm, in whole or in part, or may modify the decision appealed from as to it may appear just and proper.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Section 3308. Remedies.—In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this article or of any ordinance or other regulation made under author-

ity conferred hereby, the proper local authorities of the borough, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Section 3309. *Certain Buildings of Public Utility Corporations Exempted.*—This article shall not apply to any existing or proposed building or extension thereof used or to be used by public utility corporations, if upon petition of the corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

Section 3310. *Finances.*—The council is empowered to appropriate out of the general borough fund such moneys, otherwise unappropriated, as it may deem fit, to finance the work of the borough zoning commission and the board of adjustment, and to enforce the zoning regulations and restrictions which are adopted, and to accept grants of money and service for these purposes from either private or public sources, State or Federal.

Section 94. Article XXXII and sections 3201, 3205, 3206, 3207, 3208 and 3210 of the act of May 4, 1927 (Pamphlet Laws 519) are hereby reenacted, revised and amended and renumbered as follows:

Article XXXII and sections 3201, 3205 to 3208 and 3210, act of May 4, 1927 P. L. 519, reenacted, revised, amended and renumbered.

ARTICLE [XXXII] XXXIV

ACTIONS BY AND AGAINST BOROUGHS

(a) Municipal Claims

Section [3201] 3401. *Collection of Municipal Claims.*—Boroughs may proceed for the recovery of municipal claims and taxes by lien or by action of assumpsit, and jurisdiction is conferred upon justices of the peace to entertain such actions of assumpsit to the amount of three hundred dollars. In all proceedings for the recovery of municipal claims an attorney's commission of five per centum may be included, not to exceed twenty dollars.

(b) Defenses by Taxpayers

Section [3205] 3405. *Intervention by Taxpayers.*—Any taxpayer of any borough may inquire into the validity of any judgment, or defend the borough in any suits or judgment, upon filing a petition with the court of common pleas of the county in which such suit is

pending or judgment exists, accompanied by an affidavit that the taxpayer believes that injustice will be done to the borough in such suit or judgment. Whenever it is deemed necessary, the court may order such taxpayer to file a bond with one or more sureties, to be approved by court, to save the borough harmless from all costs that may accrue in such proceeding subsequent to the filing of such petition. When such intervention shall have taken place, such taxpayer shall be deemed a party to the record, and no settlement *of any suit or judgment, wherein such intervention shall have taken place, shall be made by the borough without notice to such intervening taxpayer and opportunity for him to be heard.

Section [3206] 3406 Appeals by Taxpayers.—Whenever a judgment is rendered by any justice of the peace or alderman against any borough, and a right of appeal is given to such borough, and for ten days immediately after the rendition of such judgment the borough officials neglect to perfect such appeal, any taxpayer of such borough may take an appeal in behalf of the borough from such judgment to the court of common pleas of the county within the time prescribed for the taking of such appeal.

Section [3207] 3407. Affidavit by Taxpayer; Costs.—In taking the appeal, the taxpayer shall make an affidavit that the same is not taken for the purpose of delay, but because he verily believes that injustice has been done. The taxpayer shall pay the costs of the appeal, and enter sufficient bail for the payment of all costs before the justice of the peace [or alderman] and all costs in the court of common pleas.

Section [3208] 3408. Taxpayer to be Party to Suit.—Upon the filing of such appeal in the court of common pleas of the county, the taxpayer shall be made a party to the suit and shall have the right to defend such borough therein.

(c) Liability in Bond Transfers

Section [3210] 3410. All certificates of loans, issued by a borough, shall be transferable by the legal owner thereof without any liability on the part of the transfer agents of the borough to recognize or see to the execution of any trust, whether expressed, implied, or constructive, to which such loans may be subject, unless such transfer agents of the borough shall have previously received notice in writing, signed by or on behalf of the person for whom such loans appear by the certificate thereof to be held in trust, that the proposed transfer would be a violation of such trust.

* "or," in original.

Section 95. Article XXXIII of said act of May 4, 1927 (Pamphlet Laws 519) is hereby renumbered Article XXXV and is hereby reenacted in part and revised and amended to read as follows:

Article XXXIII, act of May 4, 1927 P. L. 519, renumbered Article XXXV, reenacted in part, revised and amended.

ARTICLE [XXXIII] XXXV

ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

Section [3301] 3501. *Nothing contained in this amendment, revision and reenactment shall be construed to revive any act or part of an act heretofore repealed.* The following additional acts and parts of acts of Assembly are hereby repealed as particularly set forth:

The act, approved the first day of May, one thousand nine hundred thirteen (Pamphlet Laws 155), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," so far as it relates to boroughs.

The act, approved the twelfth day of June, one thousand nine hundred thirteen (Pamphlet Laws 471), entitled "An act providing for the establishment and maintenance of boards of health in boroughs and townships of the first class, and defining their powers and duties; providing for the appointment of members of such boards of health by the president of the borough councils, or by the chairman of the board of commissioners of such townships; providing for the election of a secretary and a health officer; providing that the Commissioner of Health may take charge of the administration of health laws in any borough or township of the first class, when conditions therein, in his opinion, constitute a menace to the lives or health of the people living outside the corporate limits of such borough or township of the first class, or when it may be known to him that such borough or township of the first class is without an existing or efficient board of health; and providing the manner in which the expenses of boards of health or of the Commissioner of Health, incurred in administering health laws in any borough or township of the first class shall be paid," so far as it relates to boroughs.

The act, approved the eighteenth day of July, one thousand nine hundred seventeen (Pamphlet Laws 1083), entitled "An act requiring all persons contracting with the Commonwealth, or any department or officer thereof, or any municipal corporation, division or subdivision of the Commonwealth, to accept the provisions of the State Workmen's Compensation Act, and to insure the said contractor's liability thereunder, or secure an exemption from insurance in accordance with the terms of the said act in respect to such contract," so far as it relates to boroughs.

The act, approved the twenty-ninth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 957), entitled "An act authorizing boroughs and townships of the first class to adopt and enforce zoning ordinances regulating the location, construction, and use of buildings, the size of courts and open spaces, the density of population, and the use of land," so far as it relates to boroughs.

The act, approved the twentieth day of April, one thousand nine hundred twenty-seven (Pamphlet Laws 350), entitled "An act making it unlawful for any architect or engineer, in the employ of the Commonwealth, or of any county, municipality, borough, township, or other subdivision of the Commonwealth, and engaged in the preparation of plans, specifications, or estimates, to bid on any public work, or to be interested in contracts for public work; making it unlawful for the officers of the Commonwealth, or any county, municipality, borough, township, or other subdivision of the Commonwealth, to award the contract to any such architect or engineer in the employ of the Commonwealth; and fixing penalties," so far as it relates to boroughs.

The act, approved the thirteenth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 992), entitled "An act prohibiting cities, boroughs, towns, and townships to increase or diminish the salary, compensation or emoluments of elected officers after their election," so far as it relates to boroughs.

The act, approved the twenty-second day of June, one thousand nine hundred thirty-one (Pamphlet Laws 844), entitled as amended "An act authorizing the Commonwealth of Pennsylvania, or any department or division thereof, and counties, cities, boroughs, incorporated towns, townships, school districts, vocational school districts, and institution districts to make contracts of life, health, hospitalization, medical services, and accident policies for the benefit of employes thereof, and contracts for pensions for such employes; and providing for the payment of the cost thereof," so far as it relates to boroughs.

The act, approved the twenty-second day of June, one thousand nine hundred thirty-one (Pamphlet Laws 845), entitled "An act authorizing the publication of advertisements for bids for public works, supplies or equipment in certain publications and journals devoted to information about construction work," so far as it relates to boroughs.

The act, approved the first day of May, one thousand nine hundred thirty-five (Pamphlet Laws 124), entitled

“An act authorizing the insurance of deposits of funds, of this Commonwealth and of the political subdivisions thereof, with the Federal Deposit Insurance Corporation or other similar agency; and prohibiting requiring further security for amounts so insured,” so far as it relates to boroughs.

The act, approved the twenty-first day of June, one thousand nine hundred thirty-five (Pamphlet Laws 399), entitled “An act empowering boroughs to refund liens and bonds, secured by liens on waterworks and the appurtenances thereto and imposing no municipal liability, existing or created at the time of the original acquisition of such water-works, by the issue of refunding bonds secured solely by liens and imposing no municipal liability,” absolutely.

The act, approved the twelfth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 731, No. 290), entitled “An act to amend the act, approved the fourth day of May, one thousand nine hundred and twenty-seven (Pamphlet Laws, five hundred nineteen), entitled ‘An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs’, by requiring borough fiscal records to be open to inspection,” absolutely.

The act, approved the eighteenth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 1173), entitled “An act to prohibit discrimination on account of race, creed or color in employment under contracts for public buildings or public works,” so far as it relates to boroughs.

The act, approved the sixteenth day of March, one thousand nine hundred thirty-seven (Pamphlet Laws 98), entitled “An act authorizing political subdivisions to stipulate in specifications, upon which contracts for the construction, alteration or repairs of any public work or improvement are entered into, the minimum wages to be paid to laborers and mechanics, and providing for the stipulation of penalties in such contracts where such minimum wage stipulations are violated, and for the recovery of such penalties, and their return in certain cases,” so far as it relates to boroughs.

The act, approved the thirteenth day of May, one thousand nine hundred thirty-seven (Pamphlet Laws 620), entitled “An act requiring the consent of the electors of a township of the first class when such township, or any part thereof, is to be annexed to a contiguous borough or city,” so far as it relates to boroughs.

The act, approved the nineteenth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws

430), entitled "An act providing a method of annexation of parts of townships of the first class, in counties of the second class, not in excess of twenty per centum of the assessed value of any such township in counties of the second class, to contiguous cities of the second class, boroughs, or other contiguous townships of the first class, and regulating the proceedings pertaining thereto," so far as it relates to annexations to boroughs.

The act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 641), entitled "An act providing a method whereby boroughs may collect over a period of years, from owners of property benefited thereby, assessments for permanent paving and improvement of streets, alleys, sidewalks or other highways or parts thereof; prescribing the effect of filing municipal claims for such assessments, the interest to be charged thereon, the length of time the lien thereof shall run, and the procedure for collection upon default in such payments," absolutely.

The act, approved the fifth day of June, one thousand nine hundred forty-one (Pamphlet Laws 84), entitled "An act providing for and regulating the appointment, promotion and reduction in rank, suspension and removal of paid members of the police force in boroughs, incorporated towns and townships of the first class maintaining a police force of not less than three members; creating a civil service commission in each borough, incorporated town and township of the first class; defining the duties of such civil service commission; imposing certain duties and expense on boroughs, incorporated towns and townships of the first class; imposing penalties and repealing inconsistent laws," so far as it relates to boroughs.

The act, approved the seventh day of May, one thousand nine hundred forty-three (Pamphlet Laws 252), entitled "An act to further amend sections 601, 602 and 605 of, and to add sections 601.1, 601.2 and 601.3 to the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws, five hundred nineteen), entitled 'An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs,' changing and further providing procedure to create, change or establish boundaries of wards in boroughs; imposing additional duties on borough councils; providing in certain cases for local option; and terminating unfinished proceedings heretofore commenced for such purposes," absolutely.

The act, approved the eighteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 684),

entitled "An act to add section eight hundred eighteen to the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws, five hundred nineteen), entitled 'An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs', further providing for the election of councilmen, when the terms of all encumbrants expire in the same year," absolutely.

The act, approved the first day of June, one thousand nine hundred forty-five (Pamphlet Laws 1232), entitled "An act providing for and regulating the appointment, promotion and reduction in rank, suspension and removal of paid operators of fire apparatus in boroughs, incorporated towns and townships of the first class; creating a civil service commission in each borough, incorporated town and township of the first class; defining the duties of such civil service commission; imposing certain duties and expenses on boroughs, incorporated towns and townships of the first class imposing penalties; and repealing inconsistent laws," so far as it relates to boroughs.

All other acts or parts of acts of Assembly supplied by, inconsistent with, or appertaining to, the subject matter covered by this act are hereby repealed. It is the intention that this act shall furnish a complete and exclusive system for the government and regulation of boroughs, except as to the several matters enumerated in section one hundred and two of article one of this act.

But nothing contained in this act shall be construed to repeal any local or special laws or to repeal the provisions of the Public [Service Company] *Utility* Law or any law relating to the Board of Commissioners of Navigation for the River Delaware and its Navigable Tributaries or the provisions of any law enforcement of which is vested in the Department of Health or the Sanitary Water Board or the provisions of any law the enforcement of which is vested in the Department of Forests and Waters or the Water and Power Resources Board.

APPROVED—The 10th day of July, A. D. 1947.

JAMES H. DUFF