

No. 164

AN ACT

To reenact, revise and amend the act, approved the twenty-third day of June, one thousand nine hundred thirty-one (Pamphlet Laws 932), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto."

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** "Such" deleted in original.

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* "Finance" in original.

** "Power" in original.

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* "Ordinance" in original.

** "Pension Funds for" omitted in original.

"The Third Class City Code."

Section 1, and Article 1, sections 101 to 109, inclusive, act of June 23, 1931, P. L. 932, reenacted, revised and amended.

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

Section 1. Section 1 and article I, sections 101 to 109, inclusive, of the act, approved the twenty-third day of June, one thousand nine hundred thirty-one (Pamphlet Laws 932), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," are hereby reenacted, revised and amended to read as follows:

Section 1. Be it enacted, &c., That the laws relating to cities of the third class be and the same are hereby reenacted, amended, revised, and consolidated, as follows:

Article I

PRELIMINARY PROVISIONS

Section 101. Short Title.—This act shall be known, and may be cited, as "The Third Class City [Law]" Code."

Section 102. [Definition.—The word "city" or "cities," as used in this act, shall be construed to mean a city or cities of the third class.] *Definitions.—The following words and terms, as used in this act, shall have the meanings herein assigned to them, unless the context clearly indicates otherwise:*

"City," a city of the third class.

"Street," any street, avenue, boulevard, parkway, road, lane, court, alley, or public square within the city, and any highway within the city, as provided in section two thousand nine hundred thirty-nine of this act.

"Highway," a state highway of the Commonwealth of Pennsylvania.

"Bill," any proposed ordinance introduced in council.

Section 103. Excluded Provisions.—This act [does not include any **provision and] shall not be construed to repeal any acts relating to:

(a) The [procedure for the collecting] collection of municipal and tax claims by liens;

(b) The [procedure for the] method of incurring and increasing of city indebtedness;

(c) [Election officers and conduct] Conduct of elections;

(d) Public schools, except the collection of school taxes by the city treasurer;

(e) Aldermen;

(f) Constables;

(g) The giving of municipal consent to public service companies;

(h) Weights and measures;

* "laws" in original.

** "provisions" in original.

- (i) Validations of elections, bonds, ordinances, and acts of corporate officers;
- (j) Joint city and county buildings;
- (k) Libraries;
- (l) *State highways*;
- (m) *The joint or several authorities or duties pertaining to cities as well as to other classes of political subdivisions by virtue of general acts of Assembly.*

Section 104. Construction of Act Generally to Preserve Existing Situations.—The 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 city 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, resolutions, 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 or position under or by virtue of any act of Assembly repealed by this act shall continue to hold such office or position until the expiration of the term thereof, subject to the conditions and tenure attached to such office or position prior to the passage of this act.

Section 105. Constitutional Construction.—The provisions of this act shall be severable, and, if any of its provisions shall be held to be unconstitutional, the decision so holding shall not be construed to affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional [provision] *provisions* not been included therein.

Section 106. Construction of References.—Whenever in this act reference is made to any act by title or otherwise, such reference shall be construed to apply to and include any codification wherein the provisions of the act referred to are substantially reenacted.

Section 107. Cities to Which Act Applies.—This act shall apply to (a) all cities which have been incorporated under or which have accepted the provisions of the act of Assembly, approved the twenty-third day of May, one thousand eight hundred and seventy-four (Pamphlet Laws [, two hundred thirty] 230), entitled “An act dividing cities of this State into three classes; regulating the passage of ordinances; providing for contracts for

supplies and work for said cities; authorizing the increase of indebtedness, and the creation of a sinking fund to redeem the same; defining and punishing certain offenses in all of said cities; and providing for the incorporation and government of the cities of the third class," and the amendments thereto; (b) all cities which have been incorporated under the provisions of the act of May twenty-third, one thousand eight hundred and eighty-nine (Pamphlet Laws [, two hundred seventy-seven] 277), entitled "An act providing for the incorporation and government of cities of the third class," and the amendments thereto; (c) all cities which have been incorporated under the provisions of the act of Assembly, approved June twenty-seventh, one thousand nine hundred and thirteen (Pamphlet Laws [, five hundred sixty-eight] 568), entitled "An act providing for the incorporation, regulation, and government of cities of the third class; regulating nomination and election of municipal officers therein; and repealing, consolidating, and extending existing laws in relation thereto," and the amendments thereto; (d) all cities formed by the consolidation of boroughs having voted separately to become cities in accordance with the provisions of the act, approved May twenty-fourth, one thousand nine hundred and seventeen (Pamphlet Laws [, two hundred sixty-two] 262), entitled "An act to enable two or more boroughs that are contiguous or in close proximity to be united and to become one city, wherever each of said boroughs shall have heretofore voted or shall hereafter vote to become a city of the third class, under laws now enacted or which may hereafter be enacted; and wherever each of said boroughs has duly received or shall hereafter duly receive letters patent constituting it a city of the third class, but where sufficient time shall not have elapsed after the granting of such letters patent for the holding of a municipal election; providing for the consequences of such consolidation, the government of such consolidated city, the payment of the indebtedness of each of the united territories and the enforcement of debts and claims due to and from each, and fixing the jurisdiction over the said consolidated city in the courts of the county in which the majority of its inhabitants shall reside"; and (e) all cities incorporated under the provisions of this act as therein provided.

Section 108. *Effective Date.*—This act shall go into effect on the first day of July, one thousand nine hundred and thirty-one. *This reenactment, revision, amendment and consolidation of the laws relating to cities of the third class shall become effective on the first Monday of January, one thousand nine hundred fifty-two.*

Section 109. *Publication of Notices.* — Whenever, under the provisions of this act, advertisement, notice, or publication is required to be published in one newspaper, such publication shall be made in a newspaper of general circulation, as defined by the Newspaper Advertising Act of May sixteen, one thousand nine hundred and twenty-nine (Pamphlet Laws [, one thousand seven hundred eighty-four] 1784), printed in the the city, if there is such a newspaper, and, if not, then in a newspaper circulating generally in such city. If such notice is required to be published in more than one newspaper, it shall be published in at least one newspaper of general circulation, defined as aforesaid, printed, if there be such a newspaper, or circulating generally as above provided in the city. When such notice relates to any proceeding or matter in any court, or the holding of an election for the increase of indebtedness, or the issue and sale of bonds to be paid by taxation, such notice shall also [, in counties of the second, third, fourth and fifth classes,] be published in the legal newspaper, if any, designated by the rules of court of the proper county for the publication of legal notices and advertisements, unless such publication be dispensed with by special order of court: Provided, however, That ordinances, auditor's statements, summaries of auditor's statements, advertisements inviting proposals for public contracts and for bids for materials and supplies, or lists of delinquent taxpayers, shall be published only in newspapers of general circulation, defined as aforesaid.

Section 2. Article II and sections 201 to 211 inclusive of said act are hereby reenacted, amended and revised to read as follows:

Article II and sections 201 to 211, inclusive, said act, reenacted, amended and revised.

Article II

INCORPORATION

Section 201. [Units Which May be Chartered as] *Creation of Cities.*—Cities of the third class shall be chartered whenever a majority of the electors of any [towns] *town*, township, or borough, or any two or more contiguous towns, townships, [and/or] *or* boroughs, *or any combination thereof*, situate within the limits of the same county or situate in two or more contiguous counties, and having separately or together, as the case may be, a population of *at least ten thousand according to the last preceding United States census, shall each separately vote at any general or municipal election in favor of the same.

Section 202. Resolution to Submit Question to Electors.—The [council or] corporate authorities of any [such] town, township, or borough, or of any contiguous

* "a" in original.

towns, townships, [and/or] or boroughs, as the case may be, may, on their own motion, or, upon petition of [one] two hundred or more qualified electors thereof, shall, by resolution duly passed and recorded among the minutes, submit the question [of] whether [any] such town, township, or borough, or whether any contiguous towns, townships, [and/or] or boroughs, shall become a city of the third class, to the qualified electors thereof, to be known as the "City of"

Section 203. Notice of Election.—The said [council and the] corporate authorities shall give notice by the publication of said resolution, [during at least] once a week for four successive weeks [immediately] prior to the next general or municipal election, in [all of the] not more than two newspapers of general circulation published or circulating generally in said towns, townships, [and/or] and boroughs, in accord with the provisions of section 109 of this act.

Section 204. Resolution Certified to County [Commissioners] Board of Election; Form of Question.—The said [council and] corporate authorities shall certify said resolution to the county [commissioners] board of elections of the proper county or counties, who shall thereupon cause a proper question to be [printed on a separate ballot to be used] submitted to the qualified electors at the said general or municipal election in the said towns, townships, [and/or] and boroughs, [aforesaid,] in the manner required by the [general election laws. The electors shall designate, with a cross mark (x) in one of the said squares, their desire to vote for or against such city charter] *Pennsylvania Election Code.*

Section 205. [Duties of Election Officers; Returns of Election.—The election officers within each town, township, and/or borough, so voting, shall count the votes so cast for and against such city charter, and make return thereof, on blanks to be furnished by the county commissioners of the proper county or counties, to the clerk of the court of quarter sessions of the proper county or counties, who shall compute the same and certify the result thereof to the council and corporate authorities aforesaid, and also make returns thereof to the Secretary of the Commonwealth, and to the Secretary of Internal Affairs, each duly certified in the manner required by law. In receiving, counting, and making return of the votes cast, the inspectors, judges, and clerks of the said election shall be governed by the laws of the Commonwealth regulating general elections. All the electors, inspectors, judges, and clerks, voting at and in attendance upon the election, shall be subject to the penalties imposed by the election laws of this Common-

wealth.] *Returns of Election.*—The county board of elections shall make return of the vote cast on the question submitted to the clerk of the court of the proper county or counties, and to the respective corporate authorities of the towns, townships and boroughs submitting such question. If a majority of the votes cast in each such town, township and borough on the question shall be in favor of creating a city, then returns thereof shall also be made by the county board of elections to the Secretary of the Commonwealth and the Department of Internal Affairs.

Section 206. *Effect of Vote Against City Charter.*—Whenever by the returns of the election in any town, township, [and/or] or borough, it shall appear that in any one there is a majority against the city charter, no further proceeding shall be had, and it shall not be lawful to hold another election upon the question in such town, township, or borough [for three years] until the third general or municipal election thereafter occurring.

Section 207. *Governor to Issue Charter Where Vote for City Charter; Boundaries.*—If it shall appear by the said returns that there is a majority of the votes cast on the question in each town, township, and borough, aforesaid, in favor of the city charter, the corporate authorities of all such towns, townships, [and/or] and boroughs shall, within sixty days after such election, furnish to the Secretary of the Commonwealth the necessary information with respect to the boundaries of [said] the new city, and the Governor shall, as soon as may be, issue letters patent, under the Great Seal of the Commonwealth, reciting the facts, defining the boundaries of said city, and constituting the same a body corporate and politic by the name of the City of

.....

Section 208. *Property of Entities Vested in City.*—All of the property and estates whatsoever, real and personal, of the towns, townships, [and/or] and boroughs, which shall have thus become a city [of the third class], are hereby severally and respectively vested in the corporation or body politic of said city, by the name, style, and title given thereto [as aforesaid, and] for the use and benefit of the citizens thereof [forever].

Section 209. *Existing Governments Preserved Temporarily; Organization of City.*—The [charters] governments of the said towns, townships, [or] and boroughs shall continue in full force and operation, [and all officers under the same shall hold their respective offices] until the first Monday of January [following] next succeeding the municipal election [next succeeding the issuing of the letters patent to the said city,] provided for in section 702 of this act, at which time the officers

of *said* city chosen at [the preceding] *said* municipal election shall enter upon their respective terms of service, and the city government shall be duly organized under this act.

Whenever, in the organization of the city government of any newly incorporated city, 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] *person* so elected shall serve only for such time as intervenes between his election and the [next ensuing] day fixed by this act for the *regular* election of such officer *for a full term*.

Section 210. Existing Liabilities, Debts and Claims Transferred to New City.—All suits, prosecutions, debts, and claims, whatsoever, *of the said towns, townships and boroughs*, shall thereupon become transferred to the said city, which in all suits pending shall be substituted as a party, and be under the management and control thereof [, as fully and completely as if no alteration had been made in said charter]. All *valid* claims and demands of whatsoever nature, whether payable presently or in the future, existing against the said towns, townships, [or] *and boroughs* when the said charter shall go into operation, shall [by force thereof be recoverable from or] *be enforceable* against the said city. The bonds and floating indebtedness, and the interest thereon, of each of said towns, *townships [, or] *and boroughs*, contracted prior to such consolidation, shall be paid by the said city thus organized and chartered, so that the taxes shall be uniform throughout the territorial limits of the whole city.

Section 211. Jurisdiction of Courts Where City Situate in More Than One County.—Any city [of the third class heretofore or] hereafter formed out of [one] *two or more towns, townships, or boroughs*, [and/or townships, formed by the consolidation of boroughs partly lying] or *any combination thereof* situate in different counties, shall, for all municipal purposes of government and control, be deemed and considered as under and within the jurisdiction of the courts of that county in which [is situate the borough first incorporated of those forming such consolidated borough] *at the time the charter of the city is issued the larger percentage of the population of the new city, according to the last decennial census, is resident. The jurisdiction of any such city already chartered shall remain as heretofore.*

Section 3. Article III and sections 301 to 304 inclusive of said act are hereby reenacted, amended and revised to read as follows:

Article III and sections 301 to 304, inclusive, said act, reenacted, amended and revised.

* "township" in original.

Article III

CHANGE OF CORPORATE TITLE

Section 301. Resolution and Petition to Change Corporate Title.—Whenever the council of any city shall, by resolution, decide to change the corporate title of such city, it shall present its petition to the court of quarter sessions of the county [wherein such city is situate,] *having jurisdiction over the municipal affairs of the city*, petitioning such court to change the corporate title thereof in accordance with the resolution, a certified copy of which shall be attached to such petition.

Section 302. Hearing; Decree.—Upon the presentation of such petition, the said court shall fix a day for a hearing thereof and shall direct that notice of such hearing be published once a week for three weeks in *not more than two newspapers* [, in accord with the provisions of section one hundred and nine of this act] *of general circulation*. At such hearing the court shall hear the testimony and argument of persons both for and against the change of the corporate title of such city and, if [convinced] *the court is of the opinion* that the corporate title of such city should be changed as prayed for in the petition of the council of said city, shall enter upon the proceedings its order and decree changing the corporate title of such city in accordance with the resolution of the council thereof [. If the said court should not be convinced that such corporate title should be changed,]; *otherwise*, the petition shall be dismissed.

Section 303. Recording Decree.—Upon the filing of a certified copy of the decree of [said] *the court*, changing the corporate name of any [such] city, in the office of the Secretary of the Commonwealth and the recording thereof in the office of the recorder of deeds of the county [wherein such city is situate], *the courts of which have jurisdiction over the municipal affairs of the city*, the corporate title of said city shall thereafter be as set forth in said decree.

Section 304. Existing Rights and Liabilities Preserved.—No change in the corporate title of any city shall 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.

Section 4. Article IV and sections 401 to 408 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article IV and sections 401 to 408, inclusive, said act, reenacted, revised and amended.

Article IV

CREATION AND DIVISION OF WARDS

Section 401. Petition for Creation or Division of Wards.—New wards may be created in cities, or wards therein may be divided, by the court of quarter sessions [of the proper county], on application thereto for that purpose, by the petition of at least one hundred qualified electors of the district seeking to be created as a new ward, or of the ward to be divided, or by the petition of the council of the city. *No new ward shall contain less than three hundred qualified electors according to the last preceding enumeration.*

Section 402. Petition for Striking Territory from One Ward and Attaching to Another.—Any part or district of a ward in any city may be detached therefrom and attached to another ward by the court of quarter sessions of the proper county, on application thereto for that purpose, by the petition of at least twenty-five qualified electors of the district to be stricken off or attached, or by the petition of the council of the city.

Section 403. Appointment of Commission; Report; Order of Court.—Upon the presentation of any such petition praying for the creation of a new ward out of parts of two or more wards, or the division of a ward, or for the detaching from a ward of a part or district thereof and attaching the same to another ward, the said court shall appoint five impartial [men] *qualified electors*, residents of the city, but not of the wards to be affected thereby, as commissioners to inquire into the propriety of granting the prayer thereof: Provided, however, That in cities having not more than three wards, said commissioners shall be selected from the city at large, and may be residents of the ward or wards to be affected thereby. The commissioners so appointed, or any four of them, shall examine the premises and make a draft of the new ward or wards proposed to be created, or of the ward or wards to be divided, or of the wards affected, showing the division or change thereof, or showing the lines as any separation and attachment will affect them, as the case may be, *and showing clearly the number of qualified electors contained within the proposed new ward.* The commissioners shall make report to the said court [of quarter sessions] at its next term, together with their [opinion of the same; and at the term after that at which the report shall be made, the court shall make such order thereupon as to it shall appear just and reasonable] *recommendation.*

Section 404. Election; Form of Ballot.—If [the commissioners or] a majority of [them] *the commissioners appointed* report favorably to such creation or division,

or the detaching from a ward of a part or district thereof and attaching the same to another ward, the court shall order the question of the creation, or division of such ward, to be submitted to the qualified electors of the ward or wards affected, and in the case of the detachment of territory to the electors of the ward from which the territory is to be stricken off, at the general or municipal election occurring not less than ninety days thereafter. The clerk of said court shall certify such order to the county [commissioners of the proper county,] *board of elections* [who] *which* shall thereupon cause a proper question to be [printed on a separate ballot to be used] *submitted to the qualified electors* at such election in the manner provided by the [general election laws. The electors shall designate, with a cross mark (x) in one of said squares, their desire to vote for or against such creation or division or detachment] *Pennsylvania Election Code.*

Section 405. Notice of Election.—It shall be the duty of the mayor of the said city to give at least fifteen days' public notice, by advertisement in [at least three] *one or more* newspapers [, if so many are printed in said city,] *of general circulation* [and by handbills posted in the most public places in said ward or wards], that such an election will be held, and of the time and place of holding the same.

Section 406. Election Laws to Apply.—All the electors, judges, inspectors and clerks, voting at and in attendance upon the election to be held under the provisions of this article, shall be subject to the penalties imposed by the [election laws of this Commonwealth] *Pennsylvania Election Code.*

Section 407. Computing Vote; Return; Order of Court; Resubmission of Question [; Limit of Size and Number of Wards].—The officers of such election shall receive and count the [said ballots] *votes* in the manner prescribed by law, and shall forthwith make out a return, on forms furnished by the [county commissioners] *board of elections*, showing the number of votes for and against such new ward, or for or against such division or detachment of [territory] *a ward*, as the case may be, and shall deliver the same to the clerk of the court of quarter sessions [of the proper county] within three days. The said clerk shall compute said return, and forthwith certify the result thereof to the court. If it appears that a majority of the votes so taken are for a new ward, or for a division or for the detachment of territory and its attachment to another ward, said court shall thereupon order and decree the creation of such new ward or wards, or such division, or such detachment and attachment agreeably to the lines marked out

and returned by the commissioners, and shall number the new wards when necessary, and order a certified copy of the whole proceeding to be placed on record among the minutes of council. If a majority of votes shall be against the new ward, or against division or against detachment, no further action shall be had upon such proceeding, nor shall any new application for such new ward or such *division or detachment **and attachment be heard [for] *until* two years from the date of such election [: Provided, That no ward shall contain less than three hundred taxable inhabitants, according to the last preceding enumeration, for taxation purposes].

Section 408. Change of Ward Lines by Court.—Whenever it shall appear to the court of quarter sessions in proceedings for the division of any ward, or the creation of new wards, [where] *that* any of the boundaries or divisions thereof are [a creek or stream, or any other invisible line, that any of said lines have become changed, obliterated,] uncertain [or undesirable by reason of the opening of streets, the construction of sewers, the development of the locality, or] *for* any [other] cause, the said court shall make such order or decree as to the relocation of the line as to [them] *it* may appear proper, so that the same shall conform as [near] *nearly* as possible to the boundary lines which may have been previously determined upon.

Article V and sections 501 to 560 inclusive, said act, reenacted, amended and revised.

Section 5. Article V and sections 501 to 560 inclusive of said act are hereby reenacted, amended and revised to read as follows:

Article V

ANNEXATION OF TERRITORY

(a) Annexation of Boroughs, Townships and Parts of Townships

Section 501. Petition for Annexation of Boroughs or Townships and Parts of Townships.—Any borough having a population of less than ten thousand inhabitants, or any township or part of a township, contiguous to any city, whether wholly or partially within the same or different counties, may become annexed to any such city in the following manner:

(a) In the case of a borough, the borough council may pass an ordinance for such annexation, whenever three-fifths of the taxable inhabitants of such borough shall present a petition, accompanied with the written consent of a majority in number and interest of property owners of the borough, asking for such annexation.

(b) In the case of a township, or part [of a township] *thereof*, whenever three-fifths of the taxable in-

* "divison" in original.

** "and attachment" omitted in original.

habitants of such township or part [of a township] *thereof* shall present a petition to the council of said city, accompanied with the written consent of a majority in number and interest of property owners of such township or part of a township, asking for such annexation.

(c) In case of part of a township, when there are no taxable inhabitants residing therein, then whenever three-fifths of the property owners in number and interest of property situated therein shall present a petition to the council of said city asking for such annexation.

In construing this section, a majority in interest of owners of undivided interests in any piece of property shall be deemed and treated as one person for the purpose of ascertaining the number of petitioners.

Section 502. Advertisement; Plots.—Before any such petition is circulated or signed, notice thereof shall be given by advertisement once a week for four weeks in two newspapers published in or circulated throughout the territory to be annexed. Such notice shall state the purpose of the petition and the date it will be ready for signing. All such petitions shall be accompanied by a plot or plots of the territory to be annexed, showing all streets and highways, municipal or township improvements and public buildings.

Section 503. Ordinance of City; Filing Copy Thereof.—Upon presentation to the council of such city of a certified copy of the ordinance in case of a borough, or of the petition in the case of a township or part [of a township] *thereof*, together with the required plots in any case, the council of said city may, by ordinance, annex such borough, township, or part [of a township] *thereof* to the said city. Certified copies of the borough and city ordinances and the petition and the plans shall be filed in the office of the clerk of the court of quarter sessions of the [said] county or counties involved, and like copies shall be certified to the Department of Internal Affairs of the Commonwealth. Nothing contained in subdivision (a) of this article shall be deemed to require any city to annex any borough, township or part of [a] any such township.

Section 504. Conclusiveness of Ordinance; Referendum; Appeal.—Thirty days after the filing of the said annexation ordinance by the said city council, such ordinance and the action of the said city council shall be finally conclusive, [unless a referendum petition is filed as is provided in this act, or] unless an appeal therefrom is taken within the said thirty days, by petition to the court of quarter sessions of the county in which the city is located, or unless a referendum petition is filed as provided in this act.

Section 505. Hearing an Appeal; Notice; Appeal from Final Order.—Where an appeal is taken by any person aggrieved by such annexation ordinance of *the city*, the court shall fix a day for hearing the same. Notice shall be given to all parties interested in such manner as the court shall direct. After such hearing, the court shall decide whether the proceedings are in conformity with this act, making an order or decree dismissing the appeal and approving the annexation, or sustaining the appeal and dismissing the annexation. From any such final order or decree, any party in interest, aggrieved by such order or decree, may have an appeal to the Supreme Court as in other cases. Upon final determination and approval of the annexation ordinance by the court of quarter sessions, or by the Supreme Court, the annexation shall take effect immediately.

(b) Annexation of Outlying Lots in a Township

Section 515. Annexation of Outlying Lots; Appointment of Viewers.—Upon application by petition to the court of quarter sessions signed by a majority or more of the taxable inhabitants, accompanied by the written consent of a majority of the property owners in number and interest of any outlots or sections of land in a township containing not more than one hundred acres of land contiguous to the city, and being part of the same county in which the city is situated, stating that they desire the same to be annexed to said city, the desirability therefor, and describing the lots or land to be annexed, with a map or draft of the same, which petition shall be sworn to by one or more of the petitioners, and accompanied by the petition of the council of the city praying for the annexation of such outlots or sections of land and containing a copy of the resolution of the council of said city approving the annexation, the said court shall thereupon appoint three viewers, who shall be nonresidents of the city or of the *township whose territory is to be annexed*, to inquire into and investigate the allegations and facts stated in the said petition.

Section 516. Notice of View; Report; Decree.—Notice of the first hearing of the said viewers shall be given to the city, and to at least one of the petitioners as the court may direct. The said viewers, or a majority of them, shall make report to said court at its next session after their appointment. If they report that they find the statements and facts of said petition to be true, and recommend the annexation as prayed for, and if no appeal is taken within thirty days therefrom, the said court shall thereupon make an order or decree to carry the annexation into effect. *The city clerk shall forward*

a certified copy of said decree to the Department of Internal Affairs of the Commonwealth.

Section 517. Appeal; Hearing; Notice; Decree.—Within thirty days after filing of such report, any person aggrieved thereby may take an appeal, by petition to the court of quarter sessions, setting forth [their] *his* complaint, and thereupon the court shall fix a day for hearing the same. Notice of such appeals shall be given to all parties interested by publication once in one newspaper, in accord with the provisions of section one hundred and nine of this act. After such hearing, the court shall decide whether the proceedings are in conformity with this act, and make an order or decree either dismissing the appeal and approving such annexation or sustaining the appeal *and dismissing the annexation*. From any such final order or decree, any party in interest, aggrieved by such order or decree, may have an appeal to the Supreme Court as in other cases. When the court of quarter sessions makes an order to carry such annexation into effect, where no appeal is taken, and upon final determination and approval of the annexation ordinance by the court of quarter sessions, or by the Supreme Court, where an appeal has been taken, the said outlots or sections of land shall at once and thereafter be a part of said city as fully as if the same had been originally a part thereof. *A certified copy of any final decree or order approving such annexation shall be forwarded by the city clerk to the Department of Internal Affairs.*

Section 518. Compensation of Viewers.—The viewers herein provided for shall be allowed five dollars per day for each and every day actually spent by them in the performance of their duties, together with their actual necessary expenses. The costs of the proceedings in all cases shall be paid by the city.

(c) Annexation of Part of a Borough

Section 525. Petition for Annexation of Territory in a Borough; Ordinance of City.—Territory in a borough contiguous to a city or separated therefrom by a river or stream may be detached from the borough and annexed to the city in the following manner:

A petition signed by owners of the land in the territory proposed to be detached and annexed, and described in the petition, shall be presented to the borough authorities, who, if they find that the petition is signed by either a majority of freehold owners or by the owners of two-thirds of the area of the territory described, and that the assessed valuation of the territory described is not in excess of five per centum of *the assessed valua-

* "the" omitted in original.

tion of the borough, may, by ordinance, detach the described territory, subject to the acceptance of the detached portion by the city of the third class, and upon notice from the council of the borough that it has ordained the detachment of the described territory of the borough for the purpose of having it annexed to the city [of the third class], the city may, by ordinance, annex the portion of the borough so proposed to be detached.

Section 526. Filing of Plans.—Upon such annexation by ordinance, a plan of the territory annexed shall be filed by the [borough] city council in the office of the county commissioners *and with the clerk of the court of quarter sessions* and thereupon the detachment and annexation shall be effective: Provided, however, That if there be no delay through litigation or causes beyond the control of the councils, the plan shall be filed, *as herein required*, within [ninety (90)] *thirty* days after the [presentation of the petition to] *passage of the annexation ordinance* by the city council, and, if the proceedings are not thus completed, they shall be void in their entirety and of no effect. *A copy of the plan filed shall be likewise forwarded to the Department of Internal Affairs of the Commonwealth.*

(d) Indebtedness and Public Property when
Borough or Township is Annexed

Section 535. Apportionment of Indebtedness of Borough or Township; Taxes to be Uniform.—All the indebtedness of each borough or township annexed to a contiguous city under the provisions of this act, as well as the indebtedness of the city to which the same is annexed, shall be paid by the city as enlarged by such annexation; and all territory included within the limits of the same shall be liable for the payment of the floating and bonded indebtedness, and the interest thereon, of all the territory included within such enlarged city; and all taxes thereafter levied therefor shall be uniform throughout the territorial limits of such *enlarged city.

Section 536. Property of Annexed Territory to Become Property of City.—All of the public property owned by any such borough or township annexed to any city shall become and remain the public property of the said city.

(e) Apportionment of Indebtedness when Part of a
Township or Outlying Lots are Annexed

Section 540. Adjustment of Indebtedness when Part of Township is Annexed.—Where any part of any township or outlying lots *thereof* are annexed to any city, the

* "enlarged" omitted in original.

township officers of that part of the said township not annexed, and the city council of the said city, shall make a just and proper adjustment and apportionment of all public property owned by the said township at the time of said annexation, both real and personal, including funds as well as indebtedness, if any, to and between the said township and the city. In making such adjustment and apportionment of the property and indebtedness, the township and the city shall be entitled respectively to share in a division of the property and indebtedness in the proportion that the assessed valuation of the land remaining in the township bears to the assessed valuation of the land annexed: Provided, however, That where indebtedness was incurred by the township for an improvement located wholly within the annexed part of the township, the whole of such indebtedness shall be assumed by the city, and where any part of any such improvement is located within the annexed part of the township, the part of such indebtedness representing the part of the improvement located within the territory annexed, shall be assumed by the city, 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 duly executed and acknowledged by the proper officials, and filed in the office of the clerk of the court of quarter sessions of the county in which said city is located. *A copy of such adjustment and apportionment shall be forwarded by the city clerk to the Department of Internal Affairs of the Commonwealth.*

Section 541. Appointment of Commission; Contents of Report.—In case the said council of the said city and the township's authorities cannot make such amicable apportionment and adjustment of their property and indebtedness within six months after any such annexation, then, in that case, the said council or any officer of said township may present a petition to the court of quarter sessions of the county in which the said city is located. Whereupon the said court shall appoint three disinterested commissioners, residents and taxpayers of said county not residing in the said city nor in the said township, who, after hearing, due notice of which shall be given to the city and township interested by publication once in one or more newspapers, at least twenty days before said hearing, in accord with the provisions of section one hundred and nine of this act, shall make report to the court, making an apportionment and adjustment according to the provisions of this act of all the property as well as indebtedness, if any, to and

* "opportunity" in original.

between the said city and the said township, said report to state the amount, if any, that shall be due and payable from the city to the township, or from the township to the city, as well as the amount of indebtedness, if any, that shall be assumed by the city or township, or both of them.

Section 542. Notice of Filing of Report; Exceptions; Confirmation.—The commissioners shall give the city and the township at least five days' notice of the filing of their report. Unless exceptions are filed thereto by the city or by the township within thirty days after filing thereof, the same shall be confirmed by the court absolutely. Any sum awarded by the report to the city or to the township shall be a legal and valid claim in its favor against the city or township charged therewith, and the amount of debt, if any, apportioned to any city or township shall be a legal and valid claim against such city or township charged therewith. Any property, real or personal, given and adjudged to the city or the township shall become and be the property of the city or the township to whichever one the same is given and adjudged. Upon such report being confirmed, such claim or indebtedness charged against any city or township may be collected in the same manner as a judgment is collected against any city or township.

Section 543. Compensation of Commissioners; Costs.—The commissioners shall be allowed five dollars per day for each day actually spent by them in the performance of their duties, together with their actual necessary expenses. All costs and expenses of such proceedings shall be apportioned by the court to and between the said city and the said township as it shall deem proper.

Section 544. Disposition of Exceptions; Appeal.—In case exceptions are filed to the report of the commissioners, the court shall dispose of the same, taking testimony if deemed advisable, and the decision of the court thereon shall be final and binding on the several cities and townships, unless an appeal is taken within thirty days to the Superior or Supreme Court as in other cases.

Section 545. Jurisdiction when Territory is in Two or More Counties.—In cases where a city or township is situated in two or more counties, the court of quarter sessions of the county in which the city is located shall have exclusive jurisdiction over the matter, but the same shall be heard by a judge, not a resident of either of the judicial districts affected, who shall be called to preside specially in the matter, and, in such [case] cases, the court shall appoint the commissioners hereinbefore provided for from both or [all] *from three* of such counties.

(f) Apportionment of Indebtedness when Part
of a Borough is Annexed

Section 550. Apportionment of Indebtedness; Decree of Court.—The court of quarter sessions [of the proper county] *having jurisdiction of the city*, in cases where any part of a borough is annexed to a city, upon a petition of the borough or city, may hear evidence and consider the indebtedness and assessed valuation of the borough and the city and the assessed valuation of the territory annexed, and may enter a decree making such adjustment of the indebtedness and the manner and time of the payment thereof as to the court may seem meet and proper.

Section 551. Collection of Taxes Assessed Prior to Annexation.—Any taxes assessed prior to the going into effect of the proceedings shall be paid to the borough, and the collection and enforcement thereof shall be as though the land had not been detached.

(g) Wards

Section 560. Distribution of Annexed Territory Among Wards; New Wards; Ward Officers.—Within thirty days from the effective date of any annexation, the city council shall cause a petition to be presented to the court of quarter sessions of the county in which the said city is located, praying for the distribution of the annexed territory among the wards of the said city, or for the creation of a new ward or wards out of the same, and to make such order or decree as may be necessary to constitute such ward or wards an election district or election districts, or add to or create new election districts in a ward or wards to which such territory is attached, and the said court shall, in case of the creation of a new ward or wards, appoint the election and other officers of the same, and name the place or places of holding the first election in the said ward or wards for ward officers, and, for that purpose, may order a special election, if said court shall deem the same necessary, to be conducted in the manner provided by [law for conducting municipal election] *the Pennsylvania Election Code*. The officers elected at such special election shall hold their respective offices until their successors, elected at the next succeeding municipal election, shall be duly qualified. Any decree of court creating a new ward or wards shall be entered in full upon the records of said court and certified copies thereof, under the seal of the court, shall be delivered by the clerk of said court to and be filed by the city clerk of the city and the secretary of the school district in which said ward or wards become located. *The clerk of the court of quarter sessions shall likewise certify copies thereof to the Secre-*

Sections 565 to 568, inclusive, subdivision (h) of article V, said act, repealed.

Article VI and sections 601 to 606, inclusive, said act, reenacted, revised and amended.

tary of the Commonwealth and to the Department of Internal Affairs.

Section 5.1. Sections 565 to 568 inclusive, subdivision (h) of article V of said act, are hereby repealed.

Section 6. Article VI and sections 601 to 606 inclusive of said act are hereby reenacted, revised and amended to read as follows :

Article VI

CITY BOUNDARIES

Section 601. Navigable Stream Boundaries.—Whenever any city is bounded by the nearest margin of a navigable stream, and an opposite township, borough, or city is also bounded by the nearest margin of the same stream, the boundaries of such city shall extend to the center line of the stream. Nothing contained in this section shall be construed to repeal any local or special law providing otherwise.

Section 602. Court to Establish Disputed Boundaries.—The court of quarter sessions, upon petition of *any interested political subdivision*, may ascertain and establish disputed boundaries between [two or more cities, or between cities and boroughs or townships] *any such parties. Whenever the dispute involves the boundaries of counties, the provisions of the County Code shall apply to that extent.*

Section 603. Petition to Court; Commissioners; Report.—Upon such petition, the court shall appoint as commissioners three impartial [men, one of whom shall be a competent] *qualified electors, who shall have authority to employ a professional engineer or surveyor.* After giving notice to parties affected by publication once in at least one newspaper, [as required by] *in conformity with* section one hundred and nine of this act, they shall view the disputed boundaries. [The commissioners, or any two of them,] *A majority of the commissioners shall make a prompt report and recommendations 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. The court shall make such order thereupon as to it shall seem just and reasonable.*

Section 604. Reviews; Exceptions and Issues.—Any person affected 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.

Section 605. Pay and Expenses of Commissioners.—The commissioners shall each receive [three] *five* 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] *as well as* mileage at the rate of ten cents per mile *for each mile necessarily traveled, *and reasonable expenses incurred for surveying services*, to be paid equally by the [municipalities or townships] *political subdivisions* interested.

Section 606. Boundary Monuments.—Whenever a boundary is established pursuant to the preceding sections of this article, the court shall cause *such part* of the same as *cannot be fully described by natural lines* to be marked with [stone] *permanent* monuments, placed at intervals not exceeding fifteen hundred feet, *and at the end of any course*, and the expense of [the] placing [of] *the* said monuments, when approved by the court, shall be borne equally by the [municipalities or townships] *political subdivisions* interested, and the court shall compel payment of the same according to law.

Section 7. Sections 701 and 702 of article VII of said act are hereby repealed, and section 703 of the said article and act is hereby renumbered section 701 and as such reenacted, revised and amended to read as follows:

Sections 701 and 702 of article VII, said act, repealed, and section 703 of said article and act is renumbered section 701 and as such reenacted, revised and amended.

Article VII .

[ELECTION OF CITY OFFICERS]

ELECTED OFFICERS AND ELECTIONS

Section [703] 701. Elected Officers; Term; Eligible to Reelection; Vacancies Where Elected Officer Fails to Qualify.—The elected officers of each city shall be a mayor, four [members of council] *councilmen*, a controller, and a treasurer. [Each] *Except as provided in section seven hundred and two of this act with respect to the first election of members of council*, each of such officers shall serve for a term of four years from the first Monday of January next succeeding his election, [and until his successor is elected and duly qualified, and] *until the first Monday of January in the fourth year thereafter*. *Any such officer* shall be eligible **to reelection.

Any person elected to a city office who fails to qualify within thirty days [from] *after* the first Monday of January following his election shall be ineligible to qualify thereafter. [In such cases, the council shall declare] *A vacancy shall then exist* in the said office and a person shall be appointed to fill said vacancy in the manner provided by this act [, and, when the person so appointed to fill said vacancy qualifies for the office, the term of the person holding over shall cease and terminate].

* "for each mile" omitted in original.

** "for" in original.

Sections 704 to 706, inclusive, of article VII, said act, repealed, and section 707 of said article is renumbered 702 and as such reenacted, revised and amended.

Section 7.1. Sections 704 to 706 inclusive of article VII of said act are hereby repealed, and section 707 of said article and act is hereby renumbered section 702 and as such reenacted, revised and amended to read as follows:

Section [707] 702. First Elections in Newly Created Cities.—At the first municipal election occurring at least ninety days after the date of the letters patent issued by the Governor incorporating any city, the qualified electors of such city shall elect a mayor, a treasurer, and a controller [to serve for terms of four years from the first Monday of January next succeeding their election, and every fourth year thereafter such officers shall be elected in such city to serve for terms of four years each]. At such election, the electors of such city shall *also* elect four [members of city council] *councilmen*. The two candidates for such office receiving respectively the highest number of votes at such election shall serve for a *term* of four years from the first Monday of January next succeeding their election *until the first Monday of January in the fourth year thereafter*, and the two candidates [for council] at such election receiving the next highest number of votes shall serve for [the] a term of two years from the first Monday of January next succeeding their election [, and thereafter two members of council shall be elected at each biennial municipal election to serve for terms of four years each from the first Monday of January next succeeding their election] *until the first Monday of January in the second year thereafter*.

Said act amended by adding to article VII thereof, a new section numbered 703.

Section 7.2. Said act is hereby amended by adding to article VII thereof, a new section numbered 703, as follows:

Section 703. Nominations and Elections.—All matters relating to nominations of candidates and election of city officers shall be governed by the applicable provisions of the Pennsylvania Election Code.

Section 708 of article VII, said act, repealed, and section 709 of said act and article is renumbered section 704 and as such reenacted, revised and amended.

Section 7.3. Section 708 of article VII of said act is hereby repealed, and section 709 of said act and article is hereby renumbered section 704 and as such reenacted, revised and amended to read as follows:

Section [709] 704. Certificates of Election.—Whenever an election shall have been held for city officers, for regular terms of service, it shall be the duty of the [mayor] *officer-elect* to procure [, at the expense of the city,] from the [prothonotary of the court of common pleas of the proper] *county board of elections*, [by which court the returns thereof shall be computed,] a [certified copy, under the seal of the court, of the vote for all such officers] *certificate of election* as [computed] *issued* by the [court] *board* according to law, and to lay

the same before council on the date and time fixed by law for their organization; and the said certificate shall be filed among the city archives, and [a copy thereof entered upon the journal] *its presentation shall be noted in the minutes.*

Section 8. Article VIII and section 801 of said act are hereby reenacted, revised and amended to read as follows:

Article VIII and section 801, said act, reenacted, revised and amended.

Article VIII

VACANCIES IN OFFICE

Section 801. Vacancies in Council and Office of Mayor.—If [for any reason whatsoever] a vacancy [occurs, or] exists in the city council, whether as to the *office of mayor* *or one or more of the other members of council, the city council shall, by a majority of its remaining members, fill such vacancy, within thirty [(30)] days thereafter, by electing a qualified [elector] *person to serve until that first Monday of January when his successor [is] who shall have been elected by the qualified electors at the next municipal election, occurring at least ninety days [thereafter] after such vacancy exists, [and] is duly sworn into office* [. The person so elected shall serve] for the remainder of the term of the person originally elected to said office.

In case vacancies should [occur] *exist* whereby the [officers] *offices* of three or four of the five members of the city council become vacant, the remaining one or two members shall fill such vacancies, one at a time, giving [the] *each* new appointee such reasonable notice of his appointment as will enable him to meet and act with the then qualified member or members of the city council in making further appointments until three members of city council have been qualified, whereupon the said three members shall fill the remaining vacancies at a meeting attended by the said three members of said city council, such appointees to receive a majority of the votes of the said three members present at any such meeting. The person or persons selected to fill such vacancy or vacancies shall hold their offices as herein provided.

If, by reason of a tie vote, or otherwise, such vacancy shall not have been filled by the remaining members of city council within the time as limited herein, the court of common pleas [of the proper county], upon the petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person, for the portion of the unexpired term as above provided. [Nominations of candidates for any such office shall be made at the primary preceding the said municipal election.]

* "or" omitted in original.

If at any time vacancies should occur or exist in the membership of all five members of city council, the court of common pleas [of the county in which such city is situate] shall appoint a city council, including a mayor, of persons properly qualified, who shall serve as [hereinbefore] *herein* provided.

Section 802 of article VIII, said act, repealed, and section 803 of said article and act is re-numbered section 802 and as such reenacted, revised and amended.

Section 8.1. Section 802 of article VIII of said act is hereby repealed, and section 803 of said article and act is hereby renumbered section 802 and as such reenacted, revised and amended to read as follows:

Section [803] 802. Vacancy in Office of Controller *or of Treasurer*.—[In case] *If* a vacancy occurs in the office of city controller [thirty days or more prior to the time for the holding of the next municipal primary election, the council shall fill the vacancy by electing a city controller to serve until the first Monday of January next succeeding the time of holding said municipal primary election, and the qualified electors of the city in which said vacancy exists shall, at said municipal primary election, nominate and, at the succeeding municipal election, elect in the manner provided by law, a city controller who shall serve for the regular term of four years from the first Monday of January succeeding his election; but in case the vacancy occurs less than thirty days prior to the next municipal primary election, the council shall elect a controller to serve during the remainder of the term of the city controller whose office has become vacant] *or in the office of city treasurer, the city council shall fill such vacancy, within thirty days thereafter, by choosing a city controller or a city treasurer, as the case may be, to serve until his successor is elected by the qualified electors at the next municipal election, occurring at least one hundred and twenty days after such vacancy occurs, and is duly sworn into office. The person so elected shall serve for a term of four years from the first Monday of January next succeeding his election until the first Monday of January in the fourth year thereafter.*

Article IX and sections 901 to 912, inclusive, said act, reenacted, revised and amended.

Section 9. Article IX and sections 901 to 912 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article IX

GENERAL PROVISIONS RELATING TO CITY OFFICERS AND EMPLOYEES

Section 901. Appointment and Removal of Officers and Employees.—Council shall have the power of appointment and dismissal of all *city officers and employees* [and subordinate officers of the city] *other than*

elected officers, and shall provide for the removal of officers of the city whose offices are established by ordinance, except where otherwise provided by this act.

Section 902. Officers and Employes; Number; Duties; Compensation.—Council shall prescribe, by ordinance, the number, duties, and compensation of the officers and employes of the city. No payment of such compensation shall be made from the city treasury, or be in any way authorized, to any person except an officer or employe elected or appointed in pursuance of law. No ordinance shall be passed giving any extra compensation to any officer, servant, employe or contractor, without previous authority of law. Any officer drawing or countersigning any warrant, or passing or paying any voucher [for the same, or paying the same] *contrary to this section*, shall be guilty of a misdemeanor, and, upon conviction thereof, shall *forfeit his office*, and be sentenced to pay a fine not exceeding five thousand dollars, [and] *or to undergo imprisonment not exceeding one year, or both, at the discretion of the court.*

Section 903. Salaries of Officers not to be Increased After Election.—No city shall increase or diminish the salary, compensation, or emoluments of any elected officer after his election.

Section 904. Offices to be Held until Qualification of Successors.—Any officer of any city, who has been elected or appointed and has qualified, shall hold said office until his successor is elected or appointed and duly qualifies.

Section 905. Oath of Office; Violation of Oath; Penalty.—All officers of the city, whether elected or appointed, shall, before entering upon their respective duties, take and subscribe the oath prescribed by section 1 of article VII of the Constitution of this Commonwealth. Any person refusing to take such oath shall forfeit his [right to the] office. Any person guilty of a violation of his oath shall be guilty of a misdemeanor, and, upon conviction, shall *forfeit his office*, and be sentenced to pay a fine not exceeding one thousand dollars, or to undergo an imprisonment not exceeding one year, or both, at the discretion of the court.

Section 906. Bond to be Given by Officers and Agents.—Council may require from all officers and agents of the city, elected or appointed, lawful bonds [and security] *with corporate sureties* for the faithful performance of their duties. No officer or agent required by law or ordinance to give bond, as aforesaid, shall be sworn into office or enter upon the duties thereof until such bond shall have been duly approved by the proper authority.

Section 907. Surety Bonds; Premiums.—When any officer or employe of any city [shall be] *is* required to give a bond for the faithful performance of his duties, [and] such bond shall [be required to] be endorsed by a surety company, [it shall be lawful for such] *and* the city [to] *shall* pay the premium on such bond. *The bonds of city officers and employes hereafter given shall be with corporate sureties and not with individual or personal sureties.*

Section 908. Officers not to Become Surety on Bonds Given to City; Penalty.—No member of the council, or any other city officer, shall become surety in any bond or obligation given to the city by [any officer, or by] any agent or contractor, for the faithful performance of any trust, agency, or contract. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall forfeit his office and [shall] be sentenced to pay a fine not exceeding one hundred dollars.

Section 909. Moneys and Accounts to be Delivered by Officer to Successor.—Every officer of the city receiving or having in his possession any money, accounts, property, or effects belonging to the city shall, upon termination of his office, deliver the same to the city or to his qualified successor. *Any person violating the provisions of this section shall, upon summary conviction thereof before an alderman or justice of the peace, be sentenced to pay a fine of not less than one hundred dollars or more than three hundred dollars, and, in default of payment, undergo imprisonment not exceeding ninety days. Such failure to deliver shall, for each day thereof, be a separate and distinct offense.*

Section 910. Receipt of Bribe by Officer or Employe of City; Penalty.—Any member of council, or other city officer or employe, who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or persons, any moneys, office, appointment, employment, testimonial, reward, thing of value or enjoyment or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand such money or other advantage, matter, or thing, aforesaid, for another, as the consideration of his vote or official influence, or for withholding the same, or who shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, or thing to another, shall be [held] guilty of bribery, *a felony*, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding

ten thousand dollars, and to undergo imprisonment for a period not exceeding five years, and shall be forever incapable of holding any place of profit or trust in this Commonwealth.

Section 911. Bribery of Officers or Employes; Penalty.—Any person who shall, directly or indirectly, offer, give, or promise any money or anything of value, testimonial, privilege, or personal advantage to any member of council or other city officer or employe, to influence him in the performance or nonperformance of any of his public or official duties, shall be guilty of bribery, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand dollars, and to undergo imprisonment for a period not exceeding five years, *and shall be forever incapable of holding any place of profit or trust in this Commonwealth.*

Section 912. City Property not to be Used by Officers for Gain; [Interest in Contracts;] Penalty.—No portion of the property of the city shall be used for private gain by any officer of the city, councilman, agent or employe of said city, or any department thereof; nor shall the same be wilfully used or injured, or be sold or disposed of in any manner by any officer, councilman, agent or employe, without the consent of the council. [Nor shall any officer, councilman, agent or employe of the said city, or any department thereof, be interested, directly or indirectly, either personally or as a member or officer of any firm, company, or corporation contracting with the city, or any department thereof, in the use, purchase or sale, lease, occupation or enjoyment, as aforesaid, of any of the works, material, or property of said city.] Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding [one thousand] *five hundred* dollars, or to undergo imprisonment not exceeding one year, or both, at the discretion of the court. Upon such conviction, the party offending shall be forthwith removed from his office or employment, and shall not thereafter be eligible to election or appointment to any place of profit or trust under said city, or any department thereof.

Section 9.1. Section 913 of article IX of said act is hereby repealed, and said act is hereby amended by adding to article IX, a new section numbered 913, as follows:

Section 913. City not to Engage in Private Construction.—No official, officer, agent or employe of any city or of any department, office, institution or agency thereof, shall dispose of, or authorize or permit the disposal of, any services, materials, supplies or labor belonging to, or paid or contracted for by, the city or

Section 913 of article IX, said act, repealed, and said act amended by adding to article IX, a new section numbered 913.

any of its departments, offices, institutions or agencies, in any building, installing, laying or other work of construction of any manner of thing, whether gratuitously or for a consideration, for private rather than public benefit, within or without the city's boundaries, unless such disposal is expressly or by necessary implication authorized or required by law. This section is intended to prohibit encroachment of officials, officers, agents or employes of a city upon the markets of legitimate private enterprise engaged in all types of construction work. Any official, officer, agent or employe of a city or any department, office, institution or agency thereof, violating the provisions of this section, shall, upon summary conviction thereof, forfeit and pay to the city a fine of not less than one hundred nor more than three hundred dollars for each such offense, or in default thereof undergo imprisonment for not more than ninety days; and each day's violation shall constitute a separate and distinct offense.

Section 914. Warrants or Claims not to be Purchased by Officers; Penalty.—No member of the council, or other officer of such city, shall purchase any *warrant, order, or claim for labor or supplies furnished to said city, nor be interested, directly or indirectly, in the purchase of the same for any sum less than the amount specified therein. Any such person violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall forfeit his office and be sentenced to pay a fine not exceeding one hundred dollars.

Said act amended by adding to article IX, a new section numbered 915.

Section 9.2. Said act is hereby amended by adding to article IX, a new section numbered 915, as follows:

Section 915. Imposition of Penalties.—Whenever any offense punishable under this article IX shall also be punishable under the Penal Code of 1939, the penalties imposed, other than forfeiture of office or right to hold office, shall be only those prescribed by said Penal Code.

Section 915 of article IX, said act, renumbered section 916 and as such is amended and revised.

Section 9.3. The subsequent section heretofore numbered 915 of article IX of said act is hereby renumbered 916 and so renumbered is amended and revised to read as follows:

Section [915] 916. City Leagues and Other Municipal Affairs Organizations.—Any city may unite with other cities, or with the cities of two or more classes, and may form and organize leagues of said cities, and hold annual conventions for the study and consideration of such municipal affairs as concern and pertain to the cities comprising the league. Each city member of a league [shall] may send delegates thereto and pay **the necessary expenses incident to their attending said conven-

* "warrent" in original.

** "the" omitted in original.

tion, and pay dues to the league, and provide a fund for the necessary costs and expenses of the league and league conventions and the work carried on by said league. [Nothing herein contained shall be construed to limit the authority of council to authorize the expenditure of money to other meetings on city business.] *Council is hereby authorized to appropriate monies for like support of and participation in other organizations concerned with municipal affairs.*

Section 9.4. Said act is hereby further amended by adding to article IX thereof, a new section numbered section 917, to read as follows:

Section 917. Powers of Subpoena; Compelling Testimony.—In any case where an official or officer of the city or any agency thereof created or authorized by this act is specifically empowered to conduct hearings and investigations, such officer, official or agency shall have authority, for the purposes of such hearings or investigations, to issue subpoenas for the attendance and giving of testimony of such witnesses as are subject to the subpoenas of the courts of record of this Commonwealth, and to issue subpoenas duces tecum as to such witnesses. In the case of an agency, such subpoenas shall issue in the name of the city and of the agency upon the signature of the presiding officer thereof and the official seal, if any, of the agency. Any person refusing to obey the orders of any such subpoena shall, upon summary conviction thereof before an alderman of the city, be fined not less than ten nor more than three hundred dollars, and in default of payment thereof shall be imprisoned for a period not in excess of thirty days. All such fines shall be paid to the city treasurer for the use of the city.

Section 10. Article X, subdivision (a), and sections 1001 to 1013 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article X

THE COUNCIL

(a) General Provisions

Section 1001. Qualifications of [Members of Council] *Councilmen*.—The [members of city council] *councilmen* shall be at least twenty-five years of age, and shall be elected by the electors at large. They shall have been residents [and inhabitants] of the city wherein they shall be elected *throughout* one year next before their election, and shall reside therein [during] *throughout* their terms of service. No officer of the United States or of the [State] *Commonwealth* of Pennsylvania (except notaries public or officers of the militia), nor any county officer, [or] *nor* any officer or employe

Said act further amended by adding to article IX thereof, a new section number 917.

Article X, subdivision (a), and sections 1001 to 1013, inclusive, said act, reenacted, revised and amended.

of any school district embraced in the territory of said city, [or] *nor* any [other] officer or [any] employe of said city, or of any department thereof, *nor any member or employe of a municipality authority of which the city is a member*, shall serve as a [member of council] *councilman* during his continuance or employment, except as hereinafter provided.

Section 1002. Vesting of Legislative Power.—The legislative power of every city shall be vested in a council composed of the mayor and four councilmen.

Section 1003. Organization of Council [; Inauguration of Mayor].—The members of council [of the several cities] shall assemble in their place of meeting, for the purpose of organizing, at ten o'clock in the forenoon of the first Monday of January next succeeding the regular municipal election. The mayor shall be the president of the council, and a member thereof, *and shall have the same rights and duties, including the introduction of bills and the making of motions, as pertain to councilmen.*

Section 1004. Oath of Councilmen; Quorum; Rules.—The members of council shall take the oath of office provided for by this act, which oath may be administered by *the city clerk or any other person authorized to administer oaths.* Three members of council shall constitute a quorum, but a smaller number may compel the attendance of absent members, under penalties to be prescribed by ordinance. The council may determine its own rules [, but such rules shall not be inconsistent with the Constitution and laws of the State of Pennsylvania].

Section 1005. Meetings of Council; Notice.—The council shall hold stated meetings at least once in each month, and at such other times as may be fixed by ordinance, and continue them so long as the transaction of the public business demands. The mayor may, and upon request of two councilmen must, call special meetings of council upon twenty-four hours' notice to each member, which notice shall state whether such meeting is to be convened for special or general business. *If called for special business, only such business shall be considered as is stated in the notice.* Such notice may be waived by unanimous consent of council. All meetings of council, whether regular or special, shall be open to the public. The council shall be a continuous body, and it shall be lawful for any council to complete any unfinished business or legislation begun by the preceding council.

Section 1006. [Necessary] Ordinances; *Resolutions; Rules and Regulations*; Imposition of Fines.—The council of every city shall pass ordinances, *resolutions*, rules

and regulations in accordance with the provisions of this act, and not inconsistent therewith, as may be necessary to carry into effect the requirements thereof, and may impose fines and penalties for the violation of such ordinances, rules and regulations, recoverable in the manner hereinafter provided for the recovery of fines and penalties for the violation of city ordinances and subject to like limitations as to the amount thereof.

Section 1007. [Right to Vote] *Voting*; No Veto; Vote Necessary to Pass Ordinance.—Each [member] of the five members of council, [including the mayor,] shall [have the right to] vote on all questions coming before the council, *except as hereafter provided*. The mayor shall have no right of veto. Except as otherwise provided in this act, an affirmative vote of three members shall be necessary in order to pass any ordinance, *resolution, rule or regulation*.

Section 1008. Journal of Proceedings; Recording and Withholding of Vote.—The council shall keep a journal of its proceedings, which shall be in the possession of the city clerk, and which shall at all times be open to public inspection. Upon every vote, the yeas and nays shall be called and recorded by the city clerk. Every motion, resolution, or ordinance shall be reduced to writing before the vote is taken thereon. [Except where they shall be personally or privately interested, no] *No member in attendance* shall withhold his vote on any measure, *bill* or question unless [he shall state his reason therefor to] the council [, which may] excuse him and enter the reason upon the journal.

Section 1009. Disclosures of Interest by Councilman.—A member who has a personal or private interest in any *question*, measure or bill proposed or pending before the council shall disclose the fact to council, and shall not vote thereon, nor take any part in the discussion of the same. If such interested person shall vote without disclosing his interest in such *question*, measure or bill, [and the same be carried by his vote,] he shall forfeit his office, and [the measure or bill shall be void] *council may avoid the enactment or transaction or not, as it deems best*.

Section 1010. Ordinances and Resolutions; Signing by Mayor and City Clerk.—Every legislative act of the council shall be by resolution or ordinance, and every ordinance [or resolution] which shall have passed said council shall be signed by the mayor and attested by the city clerk.

Section 1011. Bills; Titles.—[No] *All proposed* ordinances shall be [passed by council except by bill] *presented to council in written form as bills and shall be*

numbered serially for the calendar year. [No bill] They shall not be so altered or amended on [its] their passage through council as to change [its] their original purpose. No [bills] ordinances, except general appropriation [bills] ordinances, shall be passed containing more than one subject, which shall be expressed in its title.

Section 1012. Reading of Bills; Final Passage.—Every bill shall be read at length *when introduced, and may be read by title on final passage, except as to amendments or other changes which shall be read at length.* No bill shall be passed finally on the same day on which it was introduced. At least three days shall intervene [before] *between its introduction and its final passage. Upon final passage, ordinances shall be numbered serially.*

Section 1013. [Ordinances for] Payments not Authorized by Law.—No ordinance shall be passed providing for the payment [of any claim against the city] *of any money by the city* without previous authority of law. Any officer drawing or countersigning any warrant or passing any voucher for [the same] *a payment not authorized by law, or [paying the same] making such payment,* shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand dollars, and undergo imprisonment not exceeding one year.

Section 1014 of article X, subdivision (a), said act, repealed, and the subsequent sections of said subdivision are renumbered sections 1014 to 1018 and as such are reenacted, revised and amended.

Section 10.1. Section 1014 of article X, subdivision (a), of said act is hereby repealed, and the subsequent *sections of said subdivision are hereby renumbered sections 1014 to 1018 and as such are reenacted, revised and amended as follows:

Section [1015] 1014. [Proof of Ordinance; Evidence;] *Time of Taking Effect of Ordinances; Publication; Recording; Proof and Evidence; Notice of Building and Zoning Ordinances, Maps and Plans.*—[All ordinances, resolutions, motions or other proceedings of council may be proved by the certificate of the city clerk, under the corporate seal; and when printed or published in book or pamphlet form, and purporting to be published by authority of the city, shall be read and received as evidence in all courts and ** elsewhere without further proof.] All ordinances shall, unless otherwise provided therein or by law, take effect in ten days after their passage, upon their being signed by the mayor and attested by the city clerk. Every ordinance, *except as otherwise herein provided,* prescribing a penalty for the violation thereof shall be forthwith published at least three times, each publication on a different day, in at least one and not more than

* "section" in original.
** "places" in original.

two newspapers printed or circulated within the city, in the manner provided by section one hundred and nine of this act. [At least one week and not more than three weeks prior to the presentation of any proposed building code ordinance or zoning ordinance to council, an informative notice of intention to consider such ordinance and a brief summary setting forth the principal provisions of the proposed ordinance, in such reasonable detail as will give notice of its contents and a reference to the place within the city where copy of the proposed building code or zoning ordinance may be examined or obtained, shall be published, in the manner herein provided for the publication of ordinances. Such building code ordinance or zoning ordinance need not be published after adoption.] All ordinances shall, within one month after their passage, be certified and recorded by the city clerk, in a book provided *by the city for that purpose, which shall be at all times open to the inspection of citizens. *All ordinances, resolutions, motions or other proceedings of council may be proved by the certificate of the city clerk under the corporate seal, and when printed or published in book or pamphlet form by authority of the city, shall be read and received as evidence in all courts and elsewhere without further proof. At least one week and not more than three weeks prior to the first reading of any proposed building code, ordinance or zoning ordinance by council, an informative notice of intention to consider such 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 in the case of a zoning ordinance, or the Department of Labor and Industry in the case of a building code, and a reference to the place or places within the city where copies of the proposed building code or zoning ordinance may be examined or obtained, shall be published in the manner herein provided for the publication of ordinances. Such building code, ordinance or zoning ordinance shall not be published after adoption, but not less than three copies thereof shall be made available for public inspection and use during business hours for at least three months after adoption, and printed copies thereof shall be supplied upon demand, at cost. In any case in which maps, plans or drawings of any kind are to be adopted as part of an ordinance, council may, instead of publishing the same as part of the ordinance, refer, in publishing the ordinance or a summary thereof, to the place where such maps, plans or drawings are on file and may be examined.*

* "by" omitted in original.

Section [1016] 1015. Attendance of Witnesses and Production of Books Before Council or Committee Thereof.—The council of any city may compel the attendance of witnesses, and the production of books, papers, and other evidence, at any meeting of the body or any committee thereof. For that purpose, subpoenas may issue, signed by the mayor or the chairman of the committee, in any pending case of inquiry, investigation, or impeachment, and the same may be served and executed in any part of this Commonwealth. Any member of council and the city clerk shall have power to administer oaths to such witnesses. If any witness shall refuse to testify as to any fact within his knowledge, or to produce any books or papers within his possession or under his control, required to be used as evidence in any such case, the city clerk shall forthwith report the facts relating to such refusal to the court of common pleas [of the county within which such city is situated]. All questions arising upon such refusal, and also upon any new evidence, not included in said clerk's report (which new evidence may be offered in behalf of or against such witness), shall at once be heard by said court. If the court determines that the testimony or evidence required by such witness is legal and properly competent, and ought to be given or produced by him, then said court shall make an order commanding such witness to testify or produce books or papers, or both, as the case may be. If such witness shall thereafter, in disobedience of such order of the court, refuse to testify or *to produce books or papers, as aforesaid, then the said court shall have ** power to order the commitment of such witness [to the county jail of the proper county] for contempt.

Any person, so called as a witness, and examined under oath, shall be liable to indictment, conviction, and punishment for perjury, in the same manner and to the same extent as if the witness had been called and examined before any committee of the Legislature, or in any judicial proceeding before any of the courts of record, in accordance with existing laws. No person outside of such city, subpoenaed as aforesaid, shall be required to respond to the same until he has been furnished with mileage to and from said city, at the rate of ten cents per mile, and a per diem allowance of [two] three dollars for the time his presence is desired in said city.

Section [1017] 1016. Salaries.—Councilmen shall receive for their services during their term of service annual salaries, to be fixed by ordinance, payable in ***monthly or semi-monthly instalments. Councils may, by the ordinance fixing said salaries, provide for the

* "to" omitted in original.

** "the" in original.

*** "monthly" in original.

assessment and retention therefrom of reasonable fines for absence from regular or special meetings of council or councilmanic committees. The salary paid to any councilman shall not be less than two hundred and fifty dollars per year. For the term of city councilmen in newly created cities, and until thereafter changed by ordinance, the salary of each councilman shall be as follows:

In cities of fifteen thousand inhabitants or under by the last United States census, each councilman shall receive a salary of four hundred and fifty dollars per annum; where said population is between fifteen thousand and thirty thousand, eleven hundred and twenty-five dollars per annum; in cities having a population above thirty thousand and not exceeding fifty thousand, three thousand dollars per annum; in cities having a population of over fifty thousand and not exceeding seventy thousand, three thousand seven hundred and fifty dollars per annum; in cities having a population of over seventy thousand, four thousand five hundred dollars per annum. The compensation to be received by councilmen shall not be increased or diminished after their election; but succeeding councils may change all compensation, said change to take effect as to councilmen [elected after such change of salaries has been made] *taking office at least six months after the passage of the ordinance providing for such change.*

Section [1018] 1017. Enforcement of Ordinances; Recovery and Payment Over of Fines and Penalties.—All actions, prosecutions, complaints, and proceedings for the violation of the ordinances of the city, and for fines, penalties, and forfeitures imposed thereby, shall be instituted in the corporate name of the city, and be conducted in the manner prescribed by law.

No warrant shall be issued except upon complaint, upon oath or affirmation, specifying the ordinance for the violation of which the same is issued. All process shall be directed to and be served by any policeman or constable of the city, who shall execute the same [anywhere within the city, or in the county of which it is part, or elsewhere,] as may be provided by law.

Warrants shall be returnable forthwith. Every summons shall be returnable in not less than five *nor more than eight days from the date thereof. Upon such return, like [proceeding] *proceedings* shall be had in all cases as are directed by law for summary convictions, or proceedings for the recovery of penalties, before justices of the peace, with the same right of appeal from any final judgment entered.

All fines and penalties for the violation of the city ordinances received by any magistrate or alderman, and

* "or" in original.

all fees, costs, fines, and penalties received by any alderman in cases heard before him while presiding in the mayor's police court, shall be paid over by the magistrate or alderman before whom the same are recovered into the city treasury, monthly, according to a statement certified by oath or affirmation taken before the [superintendent] *director* of accounts and finance, and filed with him.

Any alderman of the city may, at the request of the mayor or acting mayor, where either is for any reason unable or unwilling to act, attend the mayor's police court, and there perform all such duties and exercise all such powers as to which he has concurrent jurisdiction with the mayor, and for such services shall be allowed such compensation as council shall provide.

Section [1019] 1018. Cost of Maintenance of Prisoners in County Jails.—When a prisoner shall be committed to any county jail or prison in this Commonwealth, either *for the nonpayment of a fine or penalty imposed for the violation of any city ordinance, or while awaiting a hearing upon any charge for the violation of any city ordinance, the cost of proceedings and the expenses of maintaining such prisoner during his confinement by virtue of any such commitment, shall be paid by the city, whose ordinances were alleged to have been violated, or to which any such fines or penalties are payable. The county in which such city is located shall not be liable for any such maintenance, or to any officer, magistrate, alderman, or person for any costs of such proceedings.

Article X, subdivision (b), and sections 1030 to 1033, inclusive, said act, are reenacted, revised and amended.

Section 10.2. Article X, subdivision (b), and sections 1030 to 1033 inclusive of said act are hereby reenacted, revised and amended to read as follows:

(b) Initiative

Section 1030. Initiation of *Proposed Ordinances* by Petition; Exceptions.—Any proposed ordinance may be submitted to the council by a petition signed by the electors of any city, *as hereinafter provided*, except:

(a) *Proposed* ordinances relating to any matter, subject or thing, which is not the subject of a referendum vote as provided in subdivision (c) of this article; or

(b) *Proposed* ordinances to repeal, amend, or modify any ordinance which has been subject to the provisions of the referendum as provided in subdivision (c) of this article.

Section 1031. Petition; Notice.—The city clerk, upon the written request of one hundred qualified electors of the city, directed to him, asking for the preparation of a petition for the submission of any *proposed* ordinance

* "for the nonpayment of a fine or penalty imposed" omitted in original.

to the council of such city, and accompanied by a copy of the proposed ordinance, shall prepare such petition within ten days, and in the meantime notice shall be published, at least one time, in one newspaper, in the manner provided by section one hundred and nine of this act, that such petition will be ready for signing at the expiration of ten days from the presentation of said request. This notice shall state the purpose for which the petition is made, the place where and when it may be signed. [Ten] *Fifteen* days shall be allowed for signatures.

Section 1032. Signing; Oath.—The signing shall be done in the city clerk's office only. The petition shall be retained there at all times during the period of [ten] *fifteen* days. Each signer shall add to his signature his place of residence by street and number, and shall make oath before the city clerk that he is a qualified elector of the city and resides at the address given. The city clerk shall keep his office open for the purpose of permitting voters to sign such petition from eight o'clock ante meridian to ten o'clock post *meridian of each day except Sundays and holidays. He shall not permit any person to sign such petitions after ten o'clock post meridian on the last day for signing the same.

Section 1033. Number of Signatures; **Examination and Certificate by City Clerk.—At the expiration of the [ten] *fifteen* days aforesaid, and within ten days thereafter, the city clerk shall examine such petition, and, from the record of registered voters of the city, ascertain whether or not said petition is signed by voters equal to twenty per centum of all votes cast for all candidates for mayor at the last preceding municipal election at which a mayor was elected. If necessary, the council shall allow the city clerk extra help for that purpose. The city clerk shall attach to said petition his certificate showing the result of said examination. *If less than the required twenty per centum is certified, the petition shall fail and shall be filed in the office of the city clerk.*

Section 10.3. Section 1034 of article X, subdivision (b), of said act is hereby repealed and the subsequent sections of said subdivision are hereby renumbered sections 1034 to 1041 and as such are reenacted, revised and amended as follows:

Section [1035] 1034. Submission to Council.—If the petition shall be certified to contain *signatures equalling* the required twenty per centum of said votes cast as aforesaid, the clerk shall submit the same to the council without delay.

Section [1036] 1035. Actions by Council; *Notices*.—If the petition accompanying the proposed ordinance be

Section 1034 of article X, subdivision (b), said act, repealed, and subsequent sections of said subdivision are renumbered 1034 to 1041 and as such are reenacted, revised and amended.

* "meridan" in original.

** "Examinations" in original.

signed by electors in number to twenty per centum of the votes cast for all candidates for mayor at the last preceding municipal election at which a mayor was elected, the council shall either:

(a) Pass said *proposed* ordinance without alteration, within twenty days (except as otherwise provided herein), after attachment of the clerk's certificate to the accompanying petition; or

(b) Forthwith, after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election [unless the] *to be held at the time of the next general*, [or] municipal or *primary* election [is fixed within] *occurring at least ninety days* thereafter; and at such [special, general or municipal] election, such *proposed* ordinance shall be submitted without alteration to the vote of the electors of the said city. *Notice of such election shall be given as provided by the Pennsylvania Election Code.*

Section [1037] 1036. Form of Ballot or Ballot Label on Submission to Vote.—The ballots or ballot labels used when voting upon said ordinance shall be supplied by [council] *the county board of elections*, and shall contain a question, stating the nature of the proposed ordinance, followed by the words “yes” and “no” [and blank spaces in which the voter, by his X mark, may express his preference] *and shall be as provided in the Pennsylvania Election Code.* The [ballots] votes shall be counted and returns thereof made and computed as provided in section ten hundred and sixty-two [(Section 1062)] of this act.

Section [1038] 1037. Effect of Majority Vote.—If the majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of said city.

Section [1039] 1038. No Repeal Within Two Years.—Any ordinance [which is] *so* proposed by petition, *whether passed by council* or [which shall be] adopted by a vote of the electors, cannot be repealed or amended within two years of *its effective date* except by a vote of the electors.

Section [1040] 1039. Number of Proposed Ordinances to be Submitted; Special Elections Limited.—Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this subdivision [, but there shall not be more than one special election in any period of six months for such purpose]: Provided, That the same subject matter shall not be submitted by petition oftener than once in three years.

Section [1041] 1040. Submission for Repeal by Council.—The council may submit a proposition for the repeal or amendment of any such ordinance to be voted upon at any succeeding municipal, [or] general or primary election, *occurring at least ninety days thereafter*. Should such proposition, so submitted, receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly.

Section [1042] *1041. Publication of Proposed Ordinance; *Repeal or Amendment*.—Whenever any proposed ordinance is to be submitted to the voters of the city at any election, *or any ordinance is submitted by council for repeal or amendment, notice thereof shall be published as required by the Pennsylvania Election Code* [the city clerk shall cause such ordinance to be published once in at least two of the newspapers published in said city, as required by section one hundred and nine of this act, not less than five nor more than twenty days before the submission of such ordinance to be voted on].

Section 10.4. Article X, subdivision (c), and sections 1050 to 1064 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article X, subdivision (c), and sections 1050 to 1064, inclusive, said act, are reenacted, revised and amended.

(c) Referendum

Section 1050. Referendum; Exceptions.—No [ordinances] *ordinance* passed by council shall go into effect before ten (10) days from the time of its final passage, except:

(a) Ordinances expressly required to be passed by the general laws of the State or by the provisions of any act of Assembly, or the provisions of which and the **matters to be carried out thereunder are subject to the approval of an officer or tribunal of the State Government;

(b) Ordinances providing for tax levies, annual and other appropriations, and for the exercise of the right of eminent domain;

(c) Ordinances for the preservation of the public peace, health, morals, safety, and in the exercise of the police powers of the city government, and for the prevention and abatement of nuisances;

(d) Any ordinance providing for an election to increase indebtedness, and any other ordinance which by law must be submitted to an election before it shall take effect;

(e) Ordinances for the opening, paving, grading, or other improvement of streets or highways, when the improvement is petitioned for by a majority in number or interest of the abutting property owners;

* "1941" in original.

** "matter" in original.

(f) Ordinances for the construction of sewers, and for the purpose of keeping the streets, highways, and sidewalks in good order and repair and in a safe and passable condition.

Section 1051. Petition; Reconsideration of Ordinance.—If, during such period of ten days from the time of its final passage, a petition signed by electors of the city equal in number to at least twenty per centum of the entire vote cast for all candidates for mayor at the last preceding municipal election at which a mayor was elected, protesting against the passage of any ordinance other than those excepted from the provisions of this subdivision by the foregoing section, is presented to the council, said ordinance shall be suspended from going into operation, and council shall reconsider such ordinance.

Section 1052. Preparation of Petition by City Clerk; Notice.—Such petition shall be prepared by the city clerk immediately upon receipt by him of written request of one hundred qualified electors of the city asking that the same be prepared. Upon its preparation, he shall give notice by one insertion in one of the daily newspapers, if one be published in the city, and, if not, then in a weekly or daily newspaper published in the county, that such petition is ready for signing and the purpose of the petition, giving the place where and time when it may be signed. The said signing shall be done only in the city clerk's office, where the petition shall be retained during the period of ten days after the passage of the said ordinance.

Section 1053. Additional Petitions.—In order to facilitate the signing of such petition, the city clerk shall cause to be made at least two additional similar petitions for signing by the qualified electors, and the signing of such petitions shall have the same force and effect as the signing of the original petition. The city clerk is hereby authorized to employ at least two persons to take charge of said additional petitions; the city clerk and said persons being hereby empowered to administer the oath hereinafter required to be taken by the electors. *This section shall apply as well to petitions initiating ordinances.*

Section 1054. Signatures; Oath; Time of Signing.—Each signer shall add to his signature his place of residence by street and number, and shall make oath before the city clerk, or other person authorized as aforesaid, that he is a qualified elector of the city and resides at the address given. The city clerk shall keep his office open for the purpose of signatures to the petitions from eight o'clock ante meridian to ten o'clock post meridian of each day except Sundays and holidays. He

shall not permit any person to sign any of the said petitions after ten o'clock post meridian of the tenth day following the passage of the ordinance on which the referendum vote is prayed for.

Section 1055. Presentation of Petition to Council.—At the expiration of said ten days, the said petition shall be deemed and taken to be filed with and presented to the council, and it shall be the duty of the city clerk to lay the same before the council at its first meeting thereafter.

Section 1056. Ascertainment of Number of Signers; Report.—After its presentation, the city clerk shall ascertain from the record of registered voters of the city whether or not said referendum petition is signed by voters equal to twenty per centum of all the votes cast for mayor at the last preceding municipal election at which a mayor was elected. If necessary, the council shall allow him extra help for that purpose, and, after he has made said examination, he shall report the result *thereof to council.

Section 1057. Ordinances Granting Franchises.—No franchise or consent to occupy the public streets, highways, or other places in any city of the third class shall be given or granted to any person or persons, railroad, railway, gas, water, light, telephone or telegraph company, or to any public [service] *utility* corporation, except by ordinance, and no ordinance for such purpose shall go into effect [for thirty days after its final passage] *before thirty days after it has been filed with the Public Utility Commission.*

Section 1058. Petition against Ordinances; **Suspension.—If, within said thirty days, a petition prepared, advertised, and perfected in all respects complying with the provisions of this subdivision (except that the petitioners shall have thirty days in which to prepare said petition), is addressed to the council, signed by registered electors of the city equal in number to at least twenty per centum of all the votes cast for mayor at the last preceding municipal election at which a mayor was elected, protesting against the passage of said ordinance, the latter shall be suspended, and it shall be the duty of the city clerk to examine said petition and ascertain, from the registry of voters, whether or not said petition is signed by the required number of electors. If necessary, the council shall allow the city clerk extra help for said purpose. Upon such examination he shall report the result to council.

Section 1059. Effect of Petition; Submission to Voters.—If, in any case, it shall appear that the petitions provided for in this subdivision have not been

* "thereof" omitted in original.

** "Suspensions" in original.

signed by the requisite number of voters, no action shall be taken, but the ordinances shall be deemed and taken to be in full force from the time or times they each would have gone into effect had there been no petition against the same. But in [cases] *case* such petitions are signed by electors equal to twenty per centum of all the votes cast for mayor as aforesaid, the council shall reconsider such ordinance, and if the same is not entirely repealed, the council shall call a special election, [unless the] *to be held at the time of the next* general or municipal or *primary* election [is to be held within ninety] *occurring not less than sixty* days therefrom [, in which case the question of reference shall be to the general or municipal election, as the case may be]. At such [special, general or municipal] election [occurring within ninety days,] the said ordinance shall be submitted without alteration *in accordance with the Pennsylvania Election Code.*

Section 1060. Certification of County [Commissioners] *Board of Elections; Ballots or Ballot Labels; Expense of Elections.*—[When the submission is at a general or municipal election,] The city clerk shall certify to the county [commissioners] *board of elections* a copy of the ordinance and the proceedings of council directing the referendum vote, and the county *[commissioners] *board of elections* shall cause the question to be printed [on a separate ballot] for use in the election districts of the city. [Where there is a special election, the ballots shall be prepared and furnished by the city, and said elections shall be held by the regular election officers. The expenses of said special elections shall be paid for by the city, and said city may fix, not only the day of the election, but the time for opening and closing the polls.] *The preparation of ballots or ballot labels for and the holding of special elections shall be as provided in the Pennsylvania Election Code.* Any number of ordinances may be referred [to] and voted on at the same election. [There may not be more than one special election every six months.]

Section 1061. Form of Ballot or Ballot Label.—The ballot used when voting upon such ordinance shall contain a question stating the nature of the referred ordinance “yes” and “no” [and blank spaces in which the voter, by his X mark, may express his preference] *and shall be as provided in the Pennsylvania Election Code.*

Section 1062. Computing and Filing Returns.—The officers holding said elections shall keep tally sheets and make returns of votes in the same manner as tally sheets are kept and returns made in elections of officers and

* “commissioners” omitted in original.

the submission of other questions as [now] provided by [law] *the Pennsylvania Election Code*. The returns shall be filed with the [prothonotary of the court of common pleas, and the court shall compute the returns and cause the results thereof to be filed in said court. The prothonotary shall certify the result to the council of the proper city] *county board of elections which shall compute the returns and certify the results thereof to the city council*. [In case of] *The returns and certifications of all special elections* [, the prothonotary shall lay the returns of the election before the court at a meeting or session of the court to be held on the Tuesday succeeding the election for computation as aforesaid] *shall be made as provided in the Pennsylvania Election Code*.

Section 1063. Effect of the Vote.—If it shall appear that more persons have voted for said ordinance than against it, the ordinance shall take immediate *and full effect* [the same as if it had been passed by the council, been signed by the mayor, and there had been no referendum vote thereon] *without more from the date the results are certified to the city council*. If the vote is against said ordinance, it shall be lost and of no effect.

Section 1064. Publication of Ordinance Before Election.—Before any referendum election is held on any ordinance, [it shall be the duty of the city clerk to cause to be published] a copy of the ordinance which is to be submitted to the vote of the people [, once in at least two newspapers, as required by section one hundred and nine of this act. A copy of said publication, duly verified by affidavit, shall be filed by the city clerk in the prothonotary's office of said court, with the result of the election as computed and filed by the court] *shall be published as required by the Pennsylvania Election Code*.

Section 11. Article XI and sections 1101 to 1103 inclusive of said act are hereby reenacted, revised and amended to read as follows :

Article XI and sections 1101 to 1103, inclusive, said act, reenacted, revised and amended.

Article XI

THE EXECUTIVE DEPARTMENT

Section 1101. Executive Departments.—The executive and administrative powers, authority, and duties in each city shall be distributed into and among five departments, as follows :

1. Department of Public Affairs.
2. Department of Accounts and Finance.
3. Department of Public Safety.
4. Department of Streets and Public Improvements.
5. Department of Parks and Public Property.

Section 1102. Determination of Powers and Duties of Departments.—The council shall determine the powers and duties to be performed by, and *assign them to, the appropriate department; shall prescribe the powers and duties of officers and employes; may assign particular officers and employes to one or more of the departments; may require an officer or employe to perform duties in two or more departments; and may make such other rules and regulations as may be deemed necessary or proper for the efficient and economical conduct of the business of the city.

Section 1103. Designation of Departments; Changes.—The mayor shall be director of the department of public affairs *and as such shall have supervision over the city police*. The council shall, at the biennial organization meeting, designate, by majority vote, one councilman to be director of the department of accounts and finance, one to be director of the department of public safety, one to be director of the department of streets and public improvements, and one to be director of the department of parks and public property. Such designation [shall] *may* be changed [whenever it appears that the public service would be benefited thereby] *at council's discretion*.

Said act amended by adding to article XI thereof, a new section number 1104.

Section 11.1. Said act is hereby amended by adding to article XI thereof, a new section numbered 1104, as follows:

Section 1104. Department Directors Responsible for City Property and Supplies; Perpetual Inventory Reports.—The director of each department shall be responsible for the personal property and supplies of the city within his department, and shall prepare and maintain a perpetual inventory of such property and supplies. He shall file with the city clerk a copy of such inventory from time to time during the fiscal year, and shall make available to the director of accounts and finance a copy of such inventory to assist him in the preparation of the proposed budget ordinance. He shall furnish a copy of such inventory to the council upon request.

Article XII and sections 1201 to 1203, inclusive, said act, reenacted, revised and amended.

Section 12. Article XII and sections 1201 to 1203 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article XII

THE MAYOR

Section 1201. Qualifications.—The mayor shall be at least twenty-five years of age, and shall be elected **at large by the *qualified* electors of the city. He shall have

* "assigned" in original.

** "at large" omitted in original.

been a resident [and inhabitant] of the city wherein he shall be elected for one year, [and of the State for four years,] next before his election, and shall reside in the city [during] *throughout* his term of service.

Section 1202. Chief Executive; Inauguration.—The mayor shall be the chief executive of the city. He shall be inaugurated and take the oath of office provided for by this act at ten o'clock in the forenoon of the first Monday of January next succeeding his election, or as soon thereafter as possible.

Section 1203. Execution of Laws; Powers of Sheriff Conferred.—It shall be the duty of the mayor to be vigilant and active in causing the ordinances of the city, and the laws of the Commonwealth relating to the government of the city, to be executed and enforced. In order to enable him effectually to preserve the public peace within the city, all the powers which are devolved by the laws of this [State] *Commonwealth* upon sheriffs, to prevent and suppress mobs, riots, and unlawful and tumultuous assemblies, are hereby conferred upon him.

Section 12.1. Said act is hereby amended by adding to article XII thereof, a new section numbered 1204, as follows:

Section 1204. Official Seal of Mayor.—Council shall provide an official seal for the mayor and prescribe the form thereof.

Section 12.2. The subsequent sections of article XII of said act are hereby renumbered 1205 to 1209 inclusive and so renumbered are hereby reenacted, revised and amended to read as follows:

Section [1204] 1205. Supervision of Conduct of City Officers.—The mayor shall supervise the conduct of all city officers, examine the grounds of all reasonable complaints against any of them, and cause all of their violations or neglect of duty to be promptly punished or reported to the council for correction. For the purposes aforesaid, he is hereby empowered to issue subpoenas and compulsory processes, under his official seal, for the attendance of such persons and the production of such books and papers as he may deem necessary, *and shall have like enforcement of such subpoenas as is provided for council in section one thousand fifteen of this act.*

Section [1205] 1206. *Quarterly Reports from Directors of Department; Report of Mayor to Council; Information from [*Heads] Directors of Departments [; Special Meetings; Communications to Council].—The director of each department of the city shall prepare and submit to the mayor, at the close of each quarter of the fiscal year, a comprehensive and detailed report of all expenditures and operation of his department during*

Said act amended by adding to article XII thereof, a new section number 1204.

Subsequent sections of article XII, said act, renumbered 1205 to 1209, inclusive, and as such are reenacted, revised and amended.

* "Heads" omitted in original.

the quarter. The mayor shall review and consolidate such quarterly reports and shall prepare and submit to council a consolidated report on the expenditures and operations of the entire city government, together with his recommendations, not later than the second meeting of council after the close of each quarter. The mayor shall have the authority, at all times, to call upon any official of the city or heads of departments for any information as to the affairs under their control and management as he may require. [He shall communicate to council, from time to time as he may deem expedient, a statement of the condition and affairs of the city in respect to its government, finances, and improvements, together with suggestions and recommendations of all such measures as he may deem conducive to the interest and welfare thereof.] He may likewise report upon any and all matters of city government as frequently to council as he deems conducive to the interest and welfare of the city.

Section [1206] 1207. Criminal and Civil Jurisdiction; Docket; Fees.—The mayor shall have the criminal jurisdiction of an alderman within the city *to enforce the ordinances of the city and collect fines and penalties imposed thereunder, or to sentence violators, to suppress riots, tumults and disorderly meetings, and in or upon properties within the Commonwealth owned or controlled by the city or by any municipality authority of the city;* and shall have no civil jurisdiction except in relation to actions for [fines,] penalties, or forfeitures imposed by virtue of the ordinances of the city or the laws of the Commonwealth relating thereto.

He shall have the power of a committing magistrate under the acts of Assembly relating to tramps, vagrants, dissolute, disorderly and drunken persons, as may be provided by law.

He shall be empowered to take *acknowledgments of any instruments in writing, *pertaining to the business of the city*, solemnize marriages, and administer oaths and affirmations, *as to city business*, and shall attest all his acts with his official seal. He shall keep a docket, and shall enter therein all actions and proceedings had before him; and said docket with the entries therein, and duly certified transcripts thereof, shall be received in evidence in the same manner and with like **effect as the docket entries and transcripts of aldermen are by law admissible for similar purposes.

He shall charge and receive for all official services the same fees and costs as are allowed by law to aldermen of the city for similar services, but shall pay over the same into the city treasury monthly, according to the

* "acknowledgements" in original.

** "effects" in original.

statements thereof, verified by his oath or affirmation taken before the [superintendent] *director* of accounts and finance, and filed with him.

Section [1207] 1208. Salary.—The mayor of each city shall receive for his services during the term of service an annual salary to be fixed by ordinance, payable in [monthly] *such equal instalments as council shall provide*. The council shall, by ordinance, fix the amount of salary to be paid to the mayor for his services, and may provide for the assessment and retention therefrom of reasonable fines for absence from regular or special meetings of council or councilmanic committees. The amount of salary in cities shall not be less than five hundred dollars. Until changed by ordinance, the salary of mayors in newly created cities shall be as follows: In cities having a population of fifteen thousand or under, by the last United States census, five hundred dollars per annum; in cities having a population of over fifteen thousand, and less than thirty thousand inhabitants, one thousand two hundred dollars per annum; in cities having a population exceeding thirty thousand, and not exceeding fifty thousand inhabitants, two thousand five hundred and fifty dollars per annum; in cities having a population of over fifty thousand, and not exceeding seventy thousand inhabitants, three thousand dollars per annum; in cities having a population of over seventy thousand inhabitants, three thousand five hundred dollars per annum.

The amount of compensation for the mayor in any of the said cities shall not be increased or *diminished after his election. Succeeding councils may change the amount of [such] *the mayor's* compensation, but such change shall not affect the compensation of the mayor then in office or [elected and not inaugurated] *of any person taking office as mayor within six months of final passage of the ordinance providing for such change*.

Section [1208] 1209. Acting Mayor; Powers and Duties.—The member of city council who shall be designated as the director of the department of accounts and finance shall be vice president of the city council, and acting mayor of the city during the absence or inability of the mayor to act; and, during such absence or inability, he shall exercise all the rights and powers of the mayor. In the event of a vacancy in the office of the mayor by reason of death, resignation, or otherwise, the vice president of council shall, in like manner, act as the mayor *and shall receive the compensation of mayor but not of director of accounts and finance or councilman during such incumbency*, until the successor of the mayor is duly elected and qualified as hereinbefore pro-

* "dismissed" in original.

vided. In case of the absence or inability of the director of accounts and finance to act, the council shall designate one of its members to act as mayor.

Article XIII and sections 1301 to 1303, inclusive, said act, reenacted, revised and amended.

Section 13. Article XIII and sections 1301 to 1303 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article XIII

CITY CLERK

Section 1301. [Election] *Appointment*; Compensation; Removal.—The council of each city shall [elect] *appoint* a city clerk *on the first Monday of May, one thousand nine hundred and fifty-two, and on the first Monday of May every fourth year thereafter*, and fix his compensation by ordinance. He shall serve for a term of four years and until his successor is duly [elected] *appointed* and qualified [, and shall be removable in the manner provided by law for the removal of appointed officers].

Section 1302. Power to Administer Oaths; Duties.—The city clerk shall have the power of a notary public to administer oaths in any matter pertaining to the business of said city, or in any legal proceeding in which it is interested. He shall also perform such other duties as shall be prescribed *for his office* by law, ordinance or resolution of council.

Section 1303. Records Open to Inspection.—The [fiscal] records and documents of *city council* of every city [of the third class] shall be *kept in the office of the city clerk and shall be open to the inspection of any taxpayer thereof, his, her, or its agent, upon demand therefor during office hours*.

Sections 1401 and 1402 of article XIV, said act, reenacted, revised and amended.

Section 14. Sections 1401 and 1402 of article XIV of said act are hereby reenacted, revised and amended to read as follows:

Article XIV

THE CITY TREASURER

Section 1401. Qualifications.—The city treasurer shall be a competent accountant, *at least twenty-five years of age*, and shall have been a resident of the city [and an elector thereof] for at least [three years previous] *one year next prior to his election. He shall reside in the city throughout his term of office*.

Section 1402. Bond; Salary.—The city treasurer shall give lawful fidelity bond to the Commonwealth, with [two or more sufficient sureties, or with] a surety com-

pany authorized by law to act as surety, to be approved by the city council, in such sum as it may by ordinance direct, conditioned for the accounting for and paying over all moneys received by him in his capacity as city treasurer and the safe-keeping and payment over of all public moneys entrusted to his care, and that as tax collector of city, county, institution district, and school [, and poor] taxes he shall account for and pay over all moneys received by him as taxes, penalties and interest. The city treasurer and his [sureties] *surety* shall be discharged from further liability on any bond as tax collector, as soon as all tax items contained in the duplicates delivered to him are either, (1) collected and paid over, or (2) certified to the city council for entry as liens in the office of the prothonotary, or as *claims in the tax claim bureau, as the case may be*, or (3) returned to the county treasurer or city treasurer for sale, or (4) in the case of [personal] property, occupation, poll, and per capita] taxes, *not levied upon real estate*, a record of those which remain uncollected is filed with the tax authority. The city treasurer shall be required to give but one bond, which shall include his duties as city treasurer and collector of city, county, institution district, and school [, and poor] taxes, and shall cover the full term of his office. [Should the county, institution district, school district, or poor district be of the opinion at any time that the bond given is not sufficient, additional security may be required to be given, at the expense of the taxing district requiring the same.] *Should any of the taxing districts be of the opinion at any time that the bond given by the city treasurer is not sufficient in amount or as to the surety thereon, the said taxing district may petition the court of quarter sessions having jurisdiction in the city to have the city treasurer furnish additional bond. Thereupon, the city treasurer shall furnish such additional bond, if any, as the said court may prescribe. The premium of such bond shall be shared pro rata by the taxing districts interested, according to their respective tax interests.* The treasurer shall not in any event be required to give bond or bonds aggregating an amount in excess of the [tax] taxes to be collected by him. The bond or bonds given by the city treasurer shall or be for the use of the [city, the county, the institution district, the school district, and the poor district.] *city and the taxing districts involved.* He shall, as city treasurer, receive a fixed annual salary, to be provided by ordinance. His compensation as tax collector for the city, county, institution district and school district [, and poor district,] shall be [fixed] as provided for in [article twenty-five of this act] *the Local Tax Collection Law.*

Section 1402.1, said act, renumbered section 1408, and as such is renumbered within article XIV of said act to appear after section 1407 thereof, and sections 1403 to 1407, inclusive, of said article and act are reenacted, revised and amended.

Section 14.1. Section 1402.1 of said act is hereby renumbered section 1408, and as such is renumbered within article XIV of said act to appear after section 1407 thereof, and sections 1403 to 1407 inclusive of said article and act are hereby reenacted, revised and amended to read as follows:

Section 1403. Receipt and Payment of Moneys; *Daily Transmittal of Receipts; Duplicates*.—The city treasurer shall demand and receive all moneys payable to the city from whatever source, and shall issue a receipt in every case to the person making such payment, and shall pay all warrants duly countersigned by the director of accounts and finance and the city controller. *All receipts for money received on behalf of the city by the treasurer shall be numbered serially and made in duplicate at least, and all such duplicates shall daily, not later than the next succeeding business day, be transmitted by the city treasurer to the city controller.*

Section 1404. Method of Keeping Accounts.—The accounts of the city treasurer *shall be kept in such manner as to clearly exhibit all the items of receipts and expenditures of the city, and the sources from [whence] which the moneys are received and the objects for which the same are disbursed. He shall keep separate and distinct accounts of the receipts and expenditures of the city, the sinking fund, and the water and lighting department, respectively, and also of every special fund which may come into his hands.

Section 1405. Moneys Appropriated Only to be Paid Out.—No money shall be paid out of the city treasury unless the same shall have been previously appropriated by council to the purpose for which it is to be drawn, which shall be explicitly mentioned in the warrant therefor.

Section 1406. Depositories of City Funds.—The treasurer shall keep the public funds in such banks or financial depositories as council may direct, under such restrictions and safeguards as council may provide, and shall verify his [cash] accounts [monthly, or] whenever required, to the satisfaction of council.

No treasurer complying with the provisions of this section and any ordinance of the city, nor his surety or sureties, shall be chargeable with losses of city funds caused by the insolvency or negligence of any such city depositories.

Section 1407. Delivery of City Property in His Possession to Successor.—The city treasurer shall, upon the termination of his office, deliver to the city or to his duly qualified successor all moneys, accounts, property or effects in his possession belonging to the city.

* "should" in original.

Section [1402.1] 1408. Assistants and Employes.—The city treasurer shall appoint all the assistants and employes of his office, whose number and compensation shall be fixed by council, and who, in all other respects, shall be considered as employes of the city.

Section 15. Sections 1501 to 1505 inclusive, subdivision (a) of article XV of said act are hereby reenacted, revised and amended to read as follows:

Sections 1501 to 1505, inclusive, subdivision (a) of article XV, said act, reenacted, revised and amended.

Article XV

THE CITY ENGINEER

(a) General Provisions

Section 1501. Election of the City Engineer; Term; Bond; Filling of Vacancies.—The council of each city shall, on the first Monday of May, one thousand nine hundred and [thirty-two] *fifty-two*, and on the first Monday of May every fourth year thereafter, or as soon thereafter as practicable in each of said years, [elect] *appoint* a city engineer, who shall be a registered engineer *in civil engineering*. He shall serve for a term of four years from the said first Monday of May and until his successor is qualified [, unless sooner removed in the method prescribed by law for the removal of appointed officers]. He shall receive a fixed annual salary to be provided by ordinance. He shall give lawful bond to the city, with [two or more sureties, or with] a surety or other company authorized by law to act as surety, to be approved by council, in such sum as it shall by ordinance direct, conditioned for the faithful performance of his official duties. Vacancies in said office shall be filled by council for the unexpired term.

Section 1502. Control of Engineering Matters.—The city engineer shall have the superintendence, direction and control of the engineering matters of the city, and no department of the city shall employ or retain any additional engineer, except with the previous assent of council. Assistants and employes in the office of the city engineer shall be appointed in accordance with the civil service provisions of this act. The provisions of this article shall not apply to any board of commissioners of water-works of any city wherein the title to the water-works therein located is in the name of the commissioners of water-works.

Section 1503. Duties; Preparation of Plans.—The city engineer shall perform such duties as the council shall prescribe with reference to the construction, reconstruction, maintenance and repair of all streets, [roads,] pavements, sewers, bridges, culverts and other engineering work. He shall prepare plans, specifications, and estimates for all such work undertaken by such city, and

shall, whenever required, furnish council, the committees thereof, the mayor, public boards, or heads of departments, with reports, information or estimates on any city engineering work, or *on* questions submitted by [either] *any* of them in their official capacity.

Section 1504. Certificate of Commencement and of Completion of Municipal Improvements.—The city engineer shall immediately after the completion of any municipal improvement, the cost and expense of which, in whole or in part, is to be paid by the abutting property, make certificate in which he shall state the day or time on which the particular improvement was completed, and shall file the same with the city clerk, who shall enter the said day or time of completion in a book to be kept by him for said purposes; and the said day or time mentioned in said certificate shall be conclusive on all parties as to the time the said work was completed. The time of completion of the work, referred to in this section and in other parts of this act, shall be taken to mean the time of *the completion of the whole contract for the improvement. He shall also furnish to the city clerk a certificate showing the time on which any such particular improvement was commenced, and such certificate shall be conclusive evidence of the time when the said improvement was begun. An entry of such date shall be made by said clerk in the books aforesaid.

Section 1505. Surveys.—The city engineer shall have the charge and direction of all surveys and regulations authorized by any act of Assembly, or **ordinance of such city, and shall perform such other duties as council shall direct.

Section 151. Section 1515 to 1520, inclusive, subdivision (b) of article XV of said act, are hereby reenacted, revised and amended to read as follows:

(b) Real Estate Registry

Section 1515. Council to Provide for Registry of Real Estate.—For the purpose of procuring accurate information in reference to the ownership of all real estate, the council of each city shall provide, by ordinance, for a registry thereof in accordance with this subdivision.

Section 1516. Preparation of Books, Plans and Maps.—The city engineer of any city in which such registry shall be established shall cause to be made all such necessary books, maps and plans as will show the situation and dimensions of each property therein, which books, maps or plans shall be so prepared as to show the city number, and name of the owner or owners thereof, with blank spaces for the owner of each lot, with ***provision for the names of future owners, and dates of

* "the" omitted in original.

** "ordinances" in original.

*** "provisions" in original.

Sections 1515 to 1520, inclusive, subdivision (b) of article XV, said act, reenacted, revised and amended.

future transfer of title. For such purpose, the city engineer shall have free access, without charge, to any of the public records wherein the necessary information may be obtainable therefor. He may also cause search to be made in any other place for any muniments or evidence of title, not reported to him as hereinafter provided, and requisite for the completion of said books, maps or plans.

Section 1517. Preservation of Records.—The said books, maps and plans shall be carefully preserved in the office of the engineer, and shall be so kept, by additions from time to time, or otherwise, as to show the ownership of every lot or piece of real estate, or subdivision thereof, within the city limits, with the successive transmissions of title, from the date of the commencement of such plans; but nothing herein or in this article shall invalidate any municipal or tax claim by reason of the fact that the same is not assessed or levied against the registered owner.

Section 1518. Certified Copies of Entries Admissible as Evidence.—Certified copies, signed by the city engineer, of any of the entries in said books, or upon said maps or plans, shall be received in evidence in the same manner as the books, maps and plans themselves might be admissible for such purposes; and may be also furnished to any person desiring the same, for such fee or compensation for the use of the city as may be fixed by ordinance.

Section 1519. Duties Imposed on Owners of Real Estate when Registry Established; Penalty.—All owners of unregistered real estate within the city limits, within [one month] *thirty days* from the date of the approval of the ordinance establishing such registry, and every subsequent purchaser, devisee, or person acquiring title by partition or otherwise, to any real estate therein, within [one month] *thirty days* after acquiring such title, shall furnish to the said engineer, at his office, descriptions of their respective properties, upon blanks to be furnished by the city, and, at the same time, present their conveyance to be stamped by said engineer, without charge, as evidence of the registration thereof. Any person or persons neglecting or refusing to comply with the provisions of this section, for a period of thirty days after public notice of the requirements thereof, 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 city, as penalties for the violation of city ordinances are recoverable: Provided, however, That such registration may within said thirty day period be also effected by the recorder of deeds of the county, in accordance with existing law.

Section 1520. Registry of Properties Sold at Judicial Sales.—The sheriffs of the respective counties in which such cities are situated shall present for registry the deeds of all properties within the city limits sold by them at judicial sales, whether by execution, in partition, or otherwise.

Said act amended by adding to article XV, subdivision (b) thereof, a new section number 1521.

Section 15.2. Said act is hereby amended by adding to article XV, subdivision (b) thereof, a new section numbered 1521, as follows:

Section 1521. Filing of Municipal Claims.—*Each city's registry may be used as the lawful and proper source of property owners' or reputed owners' names for the purpose of filing municipal claims as liens or of reviving municipal liens.*

Sections 1530 to 1538, inclusive, subdivision (c) of article XV, said act, reenacted, revised and amended.

Section 15.3. Sections 1530 to 1538, inclusive, subdivision (c) of article XV of said act, are hereby reenacted, revised and amended to read as follows:

(c) Topographical Survey

Section 1530. Council May Authorize Topographical Survey.—Any city may, by ordinance, cause a topographical survey thereof to be made by its city engineer, or by such other civil engineer and assistants as they may employ for that purpose.

Section 1531. [Record] *Plan of Streets and Highways; Surveys; Grades.*—The city engineer, upon being duly authorized, shall procure and keep in his office such necessary plot or other books as shall be necessary for the purpose of entering or recording thereon all the streets [, avenues] and highways of the city, already opened or to be hereafter opened. He shall survey and mark the lines of all the streets [, avenues] and highways of the city, already opened or intended to be opened for public use, and survey and lay out new streets [, avenues] and highways, as council may deem necessary, for a regular and convenient city plan, and, if specially directed, he shall report a grade for any proposed new streets. For the said purposes, the city engineer and his assistants *or any other person engaged in such engineering work for the city* shall have full power and authority to enter upon the lands and premises of any person or persons within the said city.

Section 1532. Return of Draft of Completed Survey to Council; Inspection.—When the survey shall be completed, the said engineer shall make or cause to be made a draft or plan thereof, with every provision and explanation necessary for a full understanding of the same, distinctly designated where new streets [, avenues] and highways are thereafter to be opened, and shall return the same to the council. It shall remain in the office of the city clerk, and open to inspection by those interested, until finally approved as hereinafter provided.

Section 1533. Notice of Return; Objections; Alterations; Approval; Recording.—Council shall give at least thirty days' previous notice by publication once in at least two [(2)] newspapers of general circulation, if there be that many, as required by section one hundred and nine of this act, and by posting at least ten handbills upon lands or territory contained in the map or *plan returned for approval, that on a certain day or days, to be fixed by the said council, the said council will hear any objection that may be made to said draft or plan by any freeholder or citizen of said city, or interested person. The council at the time appointed, or at any subsequent time within three months, shall determine whether any and what alterations shall be made in the said plan or draft. When the same is finally approved, whether as returned or as altered and changed, said council may direct that the same be entered and recorded in the plot-book of street plans, in the office of the city engineer.

Section 1534. Notation of Grades on Plans.—In case the city engineer is directed to report grades for said streets [, avenues] or highways, the same shall be noted on said draft or plan, and be returned with his surveys; and said grades shall be subject to alterations and changes by council, in the manner aforesaid; and when approved by the said council shall become part of the plans, and be entered and recorded as aforesaid.

Section 1535. Effect of Recording.—Upon the recording of such plan or draft in the street plan book, and the passage of an ordinance approving said street drafts or plans and grades, or of either, as the case may be, therein designating the book and page, or pages, at or in which the said plan or plans are recorded, thereafter all the streets [, avenues] and highways, as designated upon said approved plan and recorded as aforesaid, shall be adjudged and taken to be laid out and located [public] *streets and highways*.

Section 1536. Deviation from Established Plans; Liability of City.—In case the council shall thereafter change or alter, or should they by themselves or their officers deviate from the regulations of the streets [, avenues] or highways, so as aforesaid established, and damages thereby accrue to the property of any person or persons in consequence thereof, the said city shall be liable for the payment of such damages.

Section 1537. Sectional Surveys.—Sectional surveys or drafts may be returned to the council by said engineer at any time, and be confirmed as aforesaid, and with like force and effect.

* "plans" in original.

Section 1538. Reports of Partial Surveys; Confirmation.—The said engineer may, from time to time as he shall deem expedient and the said council shall direct, make report of the surveys, plans and regulations by him made, in convenient sections, without awaiting the completion of the entire survey, and shall make duplicate drafts and plans of said section in the manner hereinbefore prescribed. The same proceedings shall be had for the final confirmation of such partial or sectional drafts and plans as is herein directed in relation to the confirmation of the entire survey, and with like effect and force.

Said act revised and amended by repealing sections 1539 and 1540 of subdivision (c), Article XV of said act.

Section 15.4. Said act is hereby revised and amended by repealing sections 1539 and 1540 of subdivision (c), article XV of said act.

Sections 1601 and 1602 of article XVI, said act, reenacted, revised and amended.

Section 16. Sections 1601 and 1602 of article XVI of said act are hereby reenacted, revised and amended to read as follows:

Article XVI

THE CITY SOLICITOR

Section 1601. [Election] *Appointment* of City Solicitor; Term; Compensation; Bond; Filling of Vacancies.—The council of each city shall, on the first Monday of May, one thousand nine hundred and [thirty-two] *fifty-two*, and on the first Monday of May every fourth year thereafter, or as soon thereafter as practicable in each of said years, [elect] *appoint* a city solicitor, who shall be learned in the law and [qualified] *admitted* to practice in the Supreme Court of the Commonwealth, *and shall maintain an office in the city*. He shall serve for a term of four years from the said first Monday of May and until his successor is qualified [, unless sooner removed in the method prescribed by law for the removal of appointed *officers]. He shall receive a fixed annual salary to be provided by ordinance. He shall give lawful bond to the city, with [two or more sureties, or with] a surety or other company authorized by law to act as surety, to be approved by council, in such sum as they shall **by ordinance direct, conditioned for the faithful performance of his official duties. Vacancies in said office shall be filled by council for the unexpired term.

Section 1602. Direction of Law Matters.—The city solicitor shall have the superintendence, direction, and control of the law matters of the city. No department of the city shall employ or retain any additional counsel in any matter or cause, except with the previous assent of council.

* "officer" in original.
** "be" in original.

Section 16.1. Said act is hereby revised and amended by repealing section 1603 of article XVI of said act, and the subsequent sections of said article and act are hereby renumbered sections 1603 to 1609 inclusive and so renumbered are hereby reenacted, revised and amended to read as follows:

Said act revised and amended by repealing section 1603 of article XVI of said act, and subsequent sections of said article and act are renumbered 1603 to 1609, inclusive, and as such are reenacted, revised and amended.

Section [1604] 1603. Duties.—The city solicitor shall prepare all bonds, obligations, contracts, leases, conveyances, and assurances to which the city or any department thereof may be party, as may be directed by resolution or ordinance, and shall commence and prosecute all and every suit or suits, action or actions, brought by the city, for or on account of any of the estates, rights, trusts, privileges, claims, or demands, of the same, as well as defend all actions or suits against the said city or any officer thereof, wherein or whereby any of the estates, rights, privileges, trusts, ordinances, or acts of the city or any department thereof, may be brought in question before any court [in this Commonwealth]. *He shall have like duties before any administrative agency or other judicial or quasi-judicial body.* He shall do all and every professional act incident to the office which he may be lawfully authorized and required to do by the mayor, or by any ordinance or resolution of the council.

Section [1605] 1604. Written Opinions to be Furnished.—The city solicitor shall, whenever required, furnish the council, the mayor, or [the heads of departments,] *any elected city official*, with his opinion, in writing, upon any question of law which may be submitted by any of them in their official capacities.

Section [1606] 1605. City Lien Docket.—The city solicitor shall keep in his office a city lien docket, which shall be open to public inspection, and in which he shall cause to be entered all claims for curbing, paving, or repaving sidewalks, assessments of damages, contributions for opening [public] streets, [lanes and alleys,] or parts thereof, for grading, paving, and macadamizing the same, for water and lighting frontage tax and water and lighting rates, sewerage, city taxes, and other matters that may be the subject of claim on the part of the city, which have or shall be returned to the solicitor as remaining due and unpaid after the period prescribed by law or ordinance for the payment of such claims. *Nothing contained herein shall be deemed to alter or replace the administration and effect of the Real Estate Tax Sale Law in any city wherein said law is in operation.*

Section [1607] 1606. Department Heads to Furnish Statements of Claim.—It shall be the duty of the head of each department, wherein any such claim shall originate, to furnish to the city solicitor, within the period prescribed by law or ordinance, a statement of

all claims for curbing, paving, et cetera, which remain due or unpaid, a certified copy of which the said heads of departments shall at the same time furnish to the [superintendent] *director of accounts and finance*.

Section [1608] 1607. Satisfaction of Liens Due City.—Upon the payment of any lien or other debt of record due the city, to any person authorized to receive the same, *that person shall forthwith forward to the city solicitor a satisfaction piece therein; and it shall be the duty of the city solicitor or his assistant forthwith to [enter] cause satisfaction to be entered upon the proper record thereof.*

Section [1609] 1608. Return and Payment of Money and Fees Received.—The city solicitor shall, at least once in every month, make a return to the director of *accounts and finance*, under oath or affirmation, of each item of moneys received by or through him, or his assistants, by virtue of his office, or on account of any matter connected therewith. Immediately upon making such return, he shall pay over the amount in his hands to the city treasurer. He shall, in like manner, pay into the city treasury all fees received by him in his official capacity, but this provision shall not be taken to include the judgment fee or commission allowed him in his capacity of attorney.

Section [1610] 1609. Assistant Solicitor.—The council of each city may [elect an] *appoint one or more assistant city [solicitor] solicitors*, whose term of office shall be [four years] *concurrent with that of the city solicitor*, and whose compensation shall be fixed by [ordinance] *resolution, and who shall assist the solicitor in the performance of all duties prescribed for him.*

Section 16.2. Said act is hereby amended by adding to article XVI thereof a new section numbered 1610 as follows:

Section 1610. Special Counsel.—Council may, at its discretion, retain special counsel for particular proceedings or matters of the city and fix his compensation by resolution.

Section 17. Article XVII and sections 1701 to 1709 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article XVII

THE CITY CONTROLLER

Section 1701. Qualifications.—The city controller shall be a competent accountant, [, and] *at least twenty-five years of age*, shall have been a resident of the city [and an elector thereof] for at least [three years previous to his election] *one year next before his election, and shall reside in the city throughout his term of office.*

Said act amended by adding to article XVI thereof, a new section number 1610.

Article XVII and sections 1701 to 1709, inclusive, said act, reenacted, revised and amended.

Section 1702. Bond [, Salary].—He shall give lawful bond to the city, [with two or more sufficient sureties, or] with a surety or other company authorized by law to act as surety, to be approved by the council, in such sum as it may by ordinance direct, conditioned for the honest and faithful discharge of his official duties.

Section 1703. Compensation.—He shall receive a fixed annual salary, to be provided by ordinance, which shall not be less than the compensation paid to members of council.

Section 1704. Examination and Audit of Accounts.—The city controller shall examine, audit and settle all accounts whatsoever in which the city is concerned, either as debtor or creditor, and shall also, *annually or as often as he desires or is directed to do so by council*, examine and audit the accounts of all bureaus, officers, and departments which collect, receive, and disburse public moneys, or who are charged with the management, control, or custody thereof, and in *every* case he [discovers any default, irregularity, delinquency, or mismanagement, he] shall make report *of such examination, audit and settlement* to the council. He shall likewise audit and report upon the accounts of any such officer upon the death, resignation, removal or expiration of the term of the said officers. *He shall likewise audit and report upon the accounts of any library to which the city makes appropriations, those of any institution owned by the city, and those of National Guard units to which the city makes appropriations.*

(a) He shall likewise audit, or *with the consent of counsel* cause to be made by [a certified public] an accountant an annual audit of, all the accounts of any municipal officer in any department of the city government who may be charged with the duty, or who may perform the services, of receiving and disbursing the funds of any association, society, or organization of municipal employes or persons, directly or indirectly connected with the municipal government, for the benefit, relief, or pensioning of firemen, policemen, or other municipal employes or persons *as aforesaid*.

(b) [Such] *All such* audits [always] shall be made in the months of January and February following each calendar year, and be annually reported to council [before the first day of] *at its first meeting in March*, as other reports of the controller are made.

[(b)] (c) Brief abstracts or summaries of the reports of such accounts and financial statements *or such other reports thereof as council may require* shall be published at least once a week for two weeks in one newspaper, in [accord] *accordance* with the provisions of section one hundred and nine of this act. The expense and cost of

such publication shall be paid out of the funds of the various associations, organizations, or societies, as their other expenses are paid.

Section 1705. Annual Report to Council; Filing Copy in Court and Appeal Therefrom.—The city controller shall make report to council, [on the first Monday of] *at its first meeting in* March in each year, [and oftener if so required by council,] of the audits which he shall have made of the accounts of the officers having charge, custody, control [and disbursements] *or disbursement of such public moneys and other funds*, showing the balance in their hands respectively, and, at the same time, the city controller shall file a copy of the said annual report to council with the clerk of the court of quarter sessions. It shall be lawful for the city or any taxpayer thereof on its behalf or any officer whose account is settled or audited to appeal from the settlement or audit to the court of common pleas of the county within forty-five days after the said annual report to council has been filed in the court of quarter sessions. 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 shall not be obtained more favorable to the party on whose behalf the appeal shall be taken than that contained in the said report. The city controller shall also prepare an [intelligent] *intelligible* summary of said reports, showing the fiscal condition of the affairs of the city, and post one copy of said summary in a conspicuous place in the city [or town] hall. *Council may require advisory interim reports from the city controller.*

Section 1706. Power to Administer Oaths; Countersigning of Warrants.—The city controller shall have the power to administer oaths or affirmations in relation to any matter touching the authentication of any account, claim, or demand *of or* against the city, but shall not receive any fee therefor, and shall countersign all warrants for the payment of moneys out of the city treasury when satisfied of the legality of such payment.

Section 1707. Power to Subpoena City Officers.—The city controller shall have power to issue subpoenas to obtain the attendance of officers whose accounts he is authorized to adjust, audit, and settle, and also to subpoena any person or persons [who] *whom* it may be necessary to examine as witnesses, and in case any city officer or any witness refuses to appear upon being subpoenaed, he shall report such refusal to council, and the council is hereby empowered to enact ordinances to compel the attendance of city officers and witnesses before the said city controller and to impose penalties in case of refusal.

Section 1708. Appointment of Deputy Controller; Powers; Responsibility.—The city controller may appoint a deputy controller, who in case of the sickness, absence, or inability of such controller to act, shall have the same powers and shall perform the same duties as are imposed by law upon the city controller. In the case of such appointment, the said controller shall be responsible *and liable* for the acts of such deputy. [Such deputy controller shall furnish such bond and receive such compensation as shall be fixed by council.]

Section 1709. Appointment of Temporary Deputy by Council; Bond; Compensation.—In case of the sickness, absence, or inability of a city controller, and when no deputy shall have been appointed by him, the council of such city may [elect] *appoint* a deputy controller to serve during the sickness, absence, or inability of such controller, or until such controller shall appoint a deputy, as aforesaid, who shall furnish such bond, and receive such compensation, as shall be fixed by council.

Section 18. Article XVIII and sections 1801 to 1809 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article XVIII
and sections
1801 to 1809,
inclusive, said
act, reenacted,
revised and
amended.

Article XVIII

ACCOUNTS AND FINANCES

Section 1801. Fiscal Year.—The fiscal year of each city shall begin on the first Monday of January [in each and every year].

Section 1802. Director of Accounts and Finance; Bond.—The director of accounts and finance shall be the head of the Department of Accounts and Finance. He shall furnish bond in such amount [and with such sureties] as shall be fixed by ordinance. He shall have authority to administer oaths and affirmations in relation to any matter touching the authentication of every account with or claim or demand *of or* against the city, but shall not be entitled to receive any fee therefor.

Section 1803. Deputy.—The director of accounts and finance may appoint a deputy, subject to the approval of council, which shall fix the salary of such deputy. The deputy shall have power to administer oaths and affirmations in all matters relating to the affairs of said office. The director of accounts and finance shall in all cases be responsible and liable for the actions and conduct of the said deputy.

Section 1804. Regulations Concerning Appropriation.—No debt shall be created by any department of the city, except in pursuance of previous authority of law, ordinance, or resolution. No money shall be paid out of the city treasury except upon appropriation made ac-

ording to law, and on warrant drawn by the proper officer in pursuance thereof. No work shall be hired to be done, no materials purchased, no contracts made, and no order issued for the payment of any moneys in any amount which will cause the sums appropriated to specific purposes to be exceeded. In every case in which an appropriation shall be exhausted, and the object of which is not completed, the director of accounts and finance shall immediately report the fact to the city 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 were drawn. The council may at any time by *ordinance make supplemental appropriations for any lawful purpose from any funds on hand or estimated to be received within the fiscal year and not appropriated to any other purpose, including the proceeds of any borrowing now or hereafter authorized by law. The council shall have the power to authorize the transfer [within the same fund] of any unexpended balance, *of any appropriation item*, or any portion thereof, [from one spending agency to another,] but such action shall be taken only on the recommendation of a director of one of the departments [and only during the last nine months of the fiscal year].

When a transfer of over five per cent of an appropriation item is made within a [fund] *department* or when a transfer of over five per cent of the total appropriation [to a fund] is made from [said fund to another fund] *one department to another department*, an affirmative vote of four members of the council shall be required.

Section 1805. Countersigning Warrants; Evidence Required.—The director of the Department of Accounts and Finance shall countersign all warrants upon the city treasury, the form whereof shall be prescribed by council, and shall not suffer any appropriation made by the council to be overdrawn. No warrant shall be countersigned unless there is money in the treasury to pay the same. Except in the case of warrants for the payment of moneys to volunteer fire companies, whenever a warrant on the treasurer shall be presented to the director of *accounts and finance* to be countersigned, the person presenting the same shall be, by the *said* director [of finance], required to 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] services *or other consideration* for payment of which the warrant is drawn have been furnished, [or] performed *or given* according to law and the terms of the contract, if any.

* "ordinance" in original.

Section 1806. Record of Assets, Property, Trusts, Debts Due, Receipts and Expenditures.—The director of accounts and finance shall have charge and keep a record of accounts, under appropriate titles, to show separately and distinctly all of the assets and property whatsoever vested in the city, and all trusts in care of the same, debts owing by the city, and all of the receipts and expenditures of the various departments.

Section 1807. Supervision of Accounts of Departments.—The director of accounts and finance shall have the supervision and control of the accounts of all of the departments, and *may* require from them at any time a statement in writing of all money or property of the city in their hands.

Section 1808. Suggestions by Director for Improvement of City Finances.—The director of accounts and finance may, from time to time, and shall, when the council shall direct, suggest plans to the council for the management and improvement of the city finances.

Section 1809. Annual Budget; *Presentation to Council; Notice; Revision; Adoption.*—The director of accounts and finance shall, *on behalf of council*, at the [first] *last* stated meeting in [December] *November* in each year [, or at least thirty days prior to the adoption of the annual budget,] present to council *for first reading* a proposed budget *ordinance* for all funds showing the estimated receipts, expenditures, and liabilities of every kind, for the ensuing year, with the balance of unexpended appropriations, and all other information of value as a basis for fixing the levy and tax rate for the next fiscal year. [Said budget shall reflect as nearly as possible the estimated revenues and expenditures of the city for the year for which the budget is prepared. It shall be unlawful to prepare and advertise notice of a proposed budget when the same is knowingly inaccurate. Where, upon any revision of the budget, it appears that the estimated expenditures in the adopted budget will be increased more than ten per cent in the aggregate, or more than twenty-five per cent in any individual item, over the proposed budget, it shall be presumed that the tentative budget was inaccurate; and such budget may not be legally adopted with any such increases therein unless the same is again advertised once as in the case of the proposed budget and an opportunity afforded to taxpayers to examine the same and protest such increases.] Such *proposed budget ordinance* shall be prepared on forms furnished as provided in section one thousand eight hundred twelve of this act. *Council shall, upon passing the said proposed budget ordinance on first reading, fix a date for adoption thereof, which shall be not later than the thirty-first day of December of such year.*

The several *departments of the city government shall, before the *proposed budget ordinance* is presented, as above provided, furnish to the council an estimate of the probable receipts and expenditures and of the amount required by each of said departments for the public service during the ensuing fiscal year as a basis for making the annual appropriations thereto.

[Final action shall not be taken on the proposed budget until after at least ten days' public notice. The budget, when submitted by the director of accounts and finance to the council, shall be published, or otherwise made available for public inspection, at least twenty days prior to the date set for the adoption of the budget.] *When the proposed budget ordinance is submitted to council and has passed first reading, the city clerk shall forthwith make the same available for public inspection at his office in the city hall, and shall thereupon publish a notice to that effect once in at least one newspaper in accordance with the provisions of section one hundred nine of this act. Such notice shall state the date fixed by council for adoption of the proposed budget ordinance, and such notice shall be published at least twenty days prior to the time fixed by council for adoption of the proposed budget ordinance. The proposed budget ordinance shall be available for public inspection at the city clerk's office for at least ten days after the afore-said newspaper notice thereof is published.*

The council shall, after making such changes and modifications therein as appear proper, adopt the budget and any [necessary] appropriation measures required to put it into effect *upon the date fixed for adoption thereof: Provided, That said budget shall reflect as nearly as possible the estimated revenues and expenditures of the city for the year for which the budget is prepared. That should it appear upon any revision of the budget that the estimated expenditures in the adopted budget would be increased more than ten per cent in the aggregate or more than twenty-five per cent in any individual item over the proposed budget, such budget shall not be adopted with any such increases therein unless the same be again made available for public inspection and for protest of such increases for a period of at least ten days after notice to that effect is published as hereinbefore provided.*

Within fifteen days after the adoption of the budget ordinance, the directors of accounts and finance shall file a copy of the same in the office of the Department of Internal Affairs.

* "epartments" in original.

Section 18.1. Said act is hereby amended by adding to article XVIII thereof, a new section numbered 1810, as follows:

Said act amended by adding to article XVIII thereof, a new section number 1810.

Section 1810. Amending Budget; Notice.—During the month of January next following any municipal election, the council of any city may amend the budget and the levy and tax rate to conform with its amended budget ordinance. A period of ten days' public inspection at the office of the city clerk of the proposed amended budget ordinance after notice by the city clerk to that effect is published once in a newspaper as provided in section one hundred nine of this act shall intervene between council's first reading of the proposed amended budget ordinance and the adoption thereof. Any amended budget ordinance must be adopted by council during the month of January and any purported adoption thereof by council in any other month shall be void and of no effect.

No such proposed amended budget ordinance shall after first reading be revised upward in excess of ten per cent in the aggregate thereof or as to an individual item in excess of twenty-five per cent of the amount of such individual item in the proposed amended budget ordinance.

Within fifteen days after the adoption of an amended budget ordinance, the director of accounts and finance shall file a copy thereof in the office of the Department of Internal Affairs.

Section 18.2. Said act is hereby further revised and amended by renumbering the subsequent sections of article XVIII thereof, sections 1811 to 1813 inclusive and so renumbered the said sections of said article and act are hereby reenacted, revised and amended as follows:

Said act further revised and amended by renumbering the subsequent sections of article XVIII thereof, sections 1811 to 1813, inclusive, and as such are reenacted, revised and amended.

Section [1810] 1811. Appropriations; Tax Rate.—When all estimates for the receipts, liabilities, and expenditures for the ensuing year shall be made, council shall proceed to make the annual appropriations, and shall fix the tax rate at such figure as [, with all sources of revenue,] will, in combination with all other estimated receipts of the city, fully meet and cover the aggregate amount of such [estimate] estimates of liabilities and expenditures for the ensuing year.

No appropriation, however, shall be made for any purpose until the interest accruing on the funded debt of the city and the principal of such part of said debt as may be coming due in that fiscal year, the salaries of officers, and the ordinary and necessary expenses of the city shall first be provided for, and no appropriation shall be made for any purpose in excess of the estimated receipts and revenues for the fiscal year for which such appropriations are made.

Section [1811] 1812. Annual Reports; Publication; Filing Report with Department of Internal Affairs; Penalty.—The director of accounts and finance shall make a report, verified by oath or affirmation, to the council at [the] a stated meeting in March in each year of the public accounts of the city and of the trusts in its care for the preceding fiscal year, exhibiting all of the expenditures thereof, respectively, and the sources from which the revenue and funds are derived and in what measures the same have been disbursed. Each account shall be accompanied by a statement in detail of the several appropriations made by council, the amount drawn *and encumbered* on each appropriation, and the *unencumbered* balance outstanding to the debit or credit of such appropriation at the close of the fiscal year.

Such report, accompanied by 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 city at the end of the fiscal year, the gross liability and the net debt of the city, the amount of the assessed valuation of the taxable property in the city, the assets of the city and 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, shall be published once in not more than two newspapers printed or circulated in such city, as required by section one hundred and nine of this act. Such publication shall be deemed compliance with the provisions of the Municipal Borrowing Law which requires the corporate authorities to publish an annual statement of indebtedness. Before such report or statement is made or published, the same shall be approved by the controller, who may approve it subject to such exceptions as he may have thereto: Provided, Council may cause such statement to be printed in pamphlet form in addition to the publications made as aforesaid.

The director of accounts and finance shall also, annually, make report of the financial condition of the city in the form above provided to the Department of Internal Affairs, within sixty days after the close of the fiscal year, signed and duly verified by the oath of the director and approved by the city controller, as above provided. Any director of accounts and finance refusing or wilfully neglecting to file such report shall, upon conviction thereof, 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 [days'] *day's* delay beyond said sixty days, and

costs. All fines recovered shall be for the use of the Commonwealth.

The report to the Department of Internal Affairs shall be presented in [the] *a* form as provided for in section one thousand eight hundred and [twelve] *thirteen* of this act.

Section [1812] *1813*. Committee to Prepare Uniform *Forms.—The uniform budget and report forms, specified in the foregoing sections of this act, shall be prepared by a committee consisting of four representatives of the League of Third Class Cities of Pennsylvania and the Secretary of Internal Affairs, or his agent who shall be a person trained in the field of municipal finance.

Such representatives shall be appointed by the president of said organization within sixty days after the effective date of this act. Such representatives shall be chosen from among finance officers of third class cities or other officers of such cities who have knowledge of their fiscal procedures. As far as possible, they shall be chosen to represent cities in the various population groups within the range of cities of the third class. The president of the League of Third Class Cities shall supply to the Secretary of Internal Affairs the names and addresses of such representatives immediately upon their appointment.

Said representatives shall serve without compensation, but they 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 cities of the various population groups, producing separate forms, if necessary, to the end that said forms shall not be inconsistent with the general administrative practices of the cities of various 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 act are prepared in cooperation with said committee. In the event that said committee should for any reason fail to furnish such cooperation, the Secretary of Internal Affairs, or his agent, shall complete the preparation of the forms. After their preparation, he shall issue said forms and distribute them annually, as needed, to the designated officers of each city of the third class.

No change or alteration in the forms prescribed shall be made by the Secretary of Internal Affairs or his agent except by a majority approval of the committee, unless

* "Forms" in original.

upon reasonable notice two or more representatives thereof fail to attend the committee meetings. In voting upon any change or alteration, each representative and the chairman of the committee shall have one vote.

Said act amended by adding to article XVIII thereof, a new section number 1814.

Section 18.3. Said act is hereby amended by adding to article XVIII thereof, a new section numbered 1814, as follows:

Section 1814. Annual Reports to Council on Insurance and Bonds.—The director of accounts and finance shall prepare or cause to be prepared and submit to council at the first stated meeting in October of each year, a complete and itemized report of all policies of insurance contracted for by the city, for the information and consideration of council. The director of accounts and finance shall make a like report at the same time each year of all bonds given for the protection of the city in whole or in part.

Sections 1901 and 1902 of article XIX, said act, consolidated into one section numbered 1901 and as such are reenacted, revised and amended, and a new section 1902 is added to said article and act.

Section 19. Sections 1901 and 1902 of article XIX of said act are hereby consolidated into one section numbered 1901 and as such are reenacted, revised and amended, and a new section numbered section 1902 is hereby added to said article and act, all as follows:

Article XIX

CONTRACTS [AND PURCHASING]

Section 1901. Power to Make Contracts; *Regulations Concerning Contracts.*—Each city may make contracts for carrying into execution the provisions of this act and the laws of the Commonwealth [, but no department thereof shall make any contract, except in pursuance of previous authority of law or ordinance]. The council shall, by ordinance, provide for and regulate the award of all contracts. *No contract shall be entered into or purchase made by the city in an amount involving two hundred dollars or more except upon council's approval thereof.*

[Section 1902. *Regulations Concerning Contracts.*—] All [work and materials] *services and personal properties* required by any city [of the third class], or any department thereof, where the amount exceeds the sum of [five hundred] *seven hundred and fifty* dollars, shall be furnished and performed under written contract, and the contract shall be awarded and given to the lowest responsible bidder, after advertising three times, each publication on a different day, in not more than two newspapers, in accord with the provisions of section one hundred and nine of this act, and the bids shall not be opened until at least ten days have elapsed after the first advertisement.

The amount of the contract shall in all cases, whether of straight sale price, conditional sale, bailment lease, or otherwise, be the entire amount which the city pays to the successful bidder or his assigns in order to obtain the services or property or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain.

The contracts or purchases made by council involving an expenditure of over [five hundred] *seven hundred and fifty* 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 city, 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 city 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, vehicles, or parts thereof, are desired by council, which are patented and manufactured or copyrighted 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.

The acceptance of bids by advertising required herein shall be made by public announcement at the meeting at which bids are received by council or at a subsequent meeting, the time and place of which shall be publicly announced when bids are so received. If, for any reason, the award is not made at either of the above meetings, the same business may be transacted at a subsequent meeting, the time and place of which shall be announced at the previous meeting held for such award. At such third meeting, the council shall either award the contract or shall reject all bids.

* "reports" in original.

All bids advertised for shall be accompanied by cash, by a certified good faith check drawn upon a bank authorized to do business in this Commonwealth in an amount required by council but at least ten per centum of the bid, or by a bond with corporate surety in such amount as council shall determine but not less than ten per centum of the amount bid. In the event any bidder shall, upon award of the contract to him, fail to comply with the requirements hereinafter stated as to a bond guaranteeing the performance of the contract the good faith deposit by cash, certified check, or bond, shall be forfeited to the city as liquidated damages.

Where advertising is required herein, the successful bidder shall be required to furnish a bond with suitable reasonable requirements guaranteeing the performance of the contract, with surety sufficient to council, within twenty days after the contract has been awarded, unless council prescribes a shorter period of not less than ten days, and failure to furnish such bond within such time shall avoid the award. Council may in all cases of contracts or purchases require bonds for performance, delivery, or other terms.

Where the roadway of a street is to be paved originally and for the first time, or reconstructed by putting down a new base, or a sewer is to be constructed, or grading done, such work shall be done under written contract, after advertising as provided in section one hundred and nine of this act, and such contract shall be given to the lowest responsible bidder.

The council [shall] *may*, by ordinance, provide for and regulate the purchase of supplies and materials and the sale of personal property.

The council may also, by ordinance, provide a contingent fund or funds for necessary repairs and incidental expenses, not otherwise provided in the general appropriations, and such funds may be expended without advertising for bids.

Section 1902. Evasion of Advertising Requirements. —No member or members of council shall evade the provisions of the preceding section as to advertising for bids by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under seven hundred and fifty dollars upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than seven hundred and fifty dollars. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below said price, when, in

either case, the transactions involved should have been made as one transaction for one price. Any members of council who so vote in violation of this provision and who know that the transaction upon which they so vote is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids, shall be jointly and severally subject to surcharge for ten per centum of the full amount of the contract or purchase. Wherever it shall appear that a member of council may have voted in violation of this section but the purchase or contract on which he so voted was not approved by council, this section shall be inapplicable.

Section 19.1. Section 1903 of said act is hereby renumbered section 1908 and as such is reordered within article XIX of said act to appear after section 1907 thereof, and said act is hereby revised and amended by adding to article XIX thereof, three new sections numbered 1903, 1904 and 1905, to read as follows:

Section 1903. Contracts for Less Than Seven Hundred and Fifty Dollars; Written Bids.—In all cases of contracts or purchases, other than the kinds mentioned in clauses (1) to (5) inclusive of section one thousand nine hundred one of this act, from twenty-five dollars to seven hundred and fifty dollars inclusive, whether made by council or by an officer or appointee of the city, written bids shall be solicited therefor; and no such contract or purchase shall be made for the city except upon at least two such written bids. The specifications upon which bids are solicited shall be uniform in so far as possible to afford equal opportunity for bidding. Catalogues and circulars of firm prices shall be acceptable as bids upon the contracts or purchases herein regulated. All such bids shall be retained in the proper department or office, and shall be reported monthly to the director of accounts and finance who shall make a consolidated monthly report thereof to council. The members of council and the controller shall have access to the bids in all departments and offices of the city for the enforcement of this provision. Any official or appointee of the city contracting or purchasing in violation of the provisions of this section shall be liable upon his bond, if any, or personally, in the full amount of the purchase or contract so made, and council may avoid any such purchase or contract.

Section 1904. Reference of Expenditures for Approval by Council.—Any expenditures or transactions, exclusive of compensation paid to city employes, in any department, office or bureau of the city, which may reasonably seem likely to exceed the sum of five hundred dollars over a period of sixty days, shall not be under-

Section 1903. said act, renumbered section 1908 and as such is reordered within article XIX of said act to appear after section 1907 thereof, and said act is revised and amended by adding to article XIX thereof, three new sections 1903, 1904 and 1905.

taken or proceeded upon except after reference thereof to council and approval by council by ordinance or resolution. Council may approve, revise, or refuse to approve any such referred expenditure or transaction. No official, agent or employe of the city shall knowingly violate the provisions of this section, and any person so violating shall forfeit and pay to the use of the city a penalty of one hundred dollars for each offense.

Section 1905. Personal Interest in Contracts.—In any case where a city officer or official elected or appointed knows or by the exercise of reasonable diligence could know that he is interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any personal property for the use of the city, or for any services to be rendered for such city, involving the expenditure by the city of more than three hundred dollars in any year, he shall notify council thereof; and any such contract shall not be passed and approved by council except by an affirmative vote of at least four members thereof. In case the interested officer is a member of council, he shall refrain from voting upon said contract. The provisions of this section shall not apply to cases where such officer or official is an employe of the person, firm or corporation to which money is to be paid in a capacity with no possible influence on the transaction and in which he cannot possibly be benefited thereby, either financially or in any other material manner. Any officer or official who shall knowingly violate the provisions of this section shall be liable to the city upon his bond, if any, or personally, to the extent of the damage shown to be sustained thereby by the city, 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, or imprisonment not exceeding one year, or both.

Section 19.2. The subsequent sections of article XIX of said act, including the section formerly numbered 1903 but now reordered within said article and now numbered 1908, are hereby renumbered sections 1906 to 1916 inclusive and so numbered are reenacted, revised and amended to read as follows:

Section [1904] 1906. Designation of Appropriations; Certification in Excess of Appropriation; Contracts for Governmental Services for More than One Year.—Every contract involving an 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 director of accounts and finance on the contract before it shall take effect as a contract. The payments required by such contract shall be made from the fund

Subsequent sections of article XIX, said act, including former section 1903, now section 1908, renumbered sections 1906 to 1916, inclusive, and as such are reenacted, revised and amended.

appropriated therefor. If the director of accounts and finance shall certify any contract in excess of the appropriation made therefor, the city shall not be liable for such excess, but the director of accounts and finance shall be liable for the same, which may be recovered in an action at law by the contracting party aggrieved. But nothing herein contained shall prevent the making of contracts for governmental services for a period exceeding one year, but any contract so made shall be executory only for the amounts agreed to be paid for such services to be rendered in succeeding fiscal years.

It shall be the duty of the director of accounts and finance to certify contracts for the payment of which sufficient appropriations have been made [, and he shall, within ten days after any certification of a contract, report back to the council in writing that he has or has not certified the same in accordance with the provisions of this section].

Section [1905] 1907. Bonds for the Protection of Labor and Material-Men.—It shall be the duty of every city to require any person, copartnership, association, or corporation, entering into a contract with such city 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 city, 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 city 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 city 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 city, 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 city shall not be liable for the payment of any costs or expense of any suit.

Section [1903] 1908. Purchasing Department.—Each city may, by ordinance, provide for the establishment of a purchasing department, which shall have supervision over the purchase and distribution of all supplies purchased [to the amount allowed by the *provisions of the next preceding section of this act]. The said department shall be attached to the department of accounts and finance or such other department as council may determine, and shall be operated in accordance with rules and regulations to be adopted by council, the rules to include the manner in which quotations shall be secured on the supplies purchased. The said department shall assist council at all times in eliminating waste and extravagance in the purchase and distribution of the supplies of the city.

Section [1906] 1909. Separate Bids for Plumbing, Heating, Ventilating and Electrical Work, *Elevators and Moving Stairs*.—In the preparation of specifications 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 *only the following* separate specifications [for the]; (1) plumbing, (2) heating, (3) ventilating [and] (4) electrical work, (5) *elevators and moving stairs*, and (6) *one complete set of specifications for all the other work to be done in such erection, construction and alteration*. 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, *including the balance of the work in addition to the plumbing, heating, ventilating and electrical work and elevators and moving stairs*. *Where it is desired to install an air conditioning unit, the heating and ventilating so involved may be regarded as one branch of work having only one set of specifications, and bids may be received and a contract awarded thereon as herein-before provided.*

Section [1907] 1910. Acceptance by Contractor of Workmen's Compensation Act.—All contracts executed by any city, or any officer or bureau or board thereof, which involve the construction or doing of any work involving the employment of labor, shall contain a provision that the contractor shall accept, in so far as the

* "provision" in original.

work covered by any such contract is concerned, the provisions of the Workmen's Compensation Act [of one thousand nine hundred fifteen,] and any *reenactments*, supplements or amendments thereto, and that the said contractor will insure his liability thereunder, or file with the city 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 *of this Commonwealth*.

Every officer of any city, or bureau or department thereof, who shall sign, on behalf of the said city, 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 one thousand nine hundred fifteen,] and any *reenactments*, supplements or amendments thereto, and proof that the said contractor has insured his liability thereunder in accordance with the terms of the 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 *of this Commonwealth*.

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

Section [1908] 1911. Contracts for Improvements; Assignment of Assessments.—Where the whole or any part of the cost of an improvement is to be paid by assessments upon the property abutting or benefited, the city may enter into an agreement with the contractor that he shall take an assignment of such assessments in payment of the amount due him under the terms of his contract, and in such case, the city shall not be otherwise liable under such contract, whether said assessments are collectible or not.

Section [1909] 1912. Architects and Engineers in Employ of City; Prohibitions from Bidding on Public Works; Penalty.—It shall be unlawful for any architect or engineer, in the employ of any city, [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] *of the city*.

It [is] *shall be* unlawful for the officers of any city, 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, municipality, borough, township, or other subdivision of the Commonwealth] *city*.

* "Burear" in original.

[It is 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, to be in any wise interested in any contract for public work for the city, or receive any remuneration or gratuity from any person interested in such contract.]

Any person or persons violating these provisions, or [either] *any* of them, [shall forfeit his office, and] shall be guilty of a misdemeanor, and, on conviction thereof, shall *forfeit his office, and* be sentenced to pay a fine not exceeding five hundred dollars, or to undergo imprisonment for not less than six months, or both, in the discretion of the court. *Any contract made in violation of the provisions of this section shall be null and void.*

Section [1910] 1913. Contracts With [Railway] *Transportation Companies.*—Subject to the provisions of the Public [Service Company] *Utility Law*, any city, of the one part, and any [street railway company, surface, elevated or underground, or motor power company leasing and operating the franchise and property of such company] *person operating a public transportation service* within the limits of such city, of the other part, may enter into contracts with each other affecting, fixing, and regulating the franchises, powers, duties, and liabilities of such companies, and the regulations and respective rights of the contracting parties. Such contracts may, *inter alia*, provide for payments by the companies to the city in lieu of the performance of certain duties or the payment of license fees or charges imposed in favor of such city, by the charters of the respective companies, or by any general law or ordinance, for the appointment by the city of a certain number of persons to act as directors of such company, in conjunction with the directors elected by the stockholders of such company, and, further, may provide for the ultimate acquisition by the city, upon terms mutually satisfactory, of the leaseholds, property, and franchises of the contracting companies.

Section [1911] 1914. Contracts for Relocation of Railroads.—Subject to the provisions of the Public [Service Company] *Utility Law*, any city may enter into contracts with any of the railroad companies, whose roads enter its limits, whereby the said railroad companies may relocate, change or elevate their railroads within said limits, [or either of them,] in such manner as, in the judgment of the proper authorities of such city, may be best adapted to secure the safety of lives and property, and promote the interest of said city; and, for that purpose, may do all such acts as may be necessary and proper to effectually carry out such contracts. Any

such contracts, made by any railroad company or companies as aforesaid with any city, are hereby fully ratified and confirmed. Nothing herein contained shall affect any contract made, or hereafter to be made, with any railroad company, from apportioning the expenses of altering and adjusting the grades of existing railroads and intersecting streets in any city so as to dispense with grade crossings.

Section [1912] 1915. Contracts with Street Railways for Exclusive Right to Lay Tracks.—In case any city shall deem it necessary for the public benefit and convenience to secure the removal of any street railway tracks already laid, or prevent the laying of such tracks already authorized to be laid, or to change the route of any street railway on any street or streets, or portion of a street or streets, within its corporate limits, and such purpose or purposes can be accomplished by agreement with the street [passenger] railway company or motor power company owning, leasing or operating such tracks, the said parties may, subject to the provisions of the Public [Service Company] *Utility* Law, enter into a contract, for a period not exceeding fifty years, for such considerations and upon such terms and conditions, and containing such stipulations, reservations and covenants as may be agreed upon between the respective parties thereto; and such contract may include a covenant providing that, during the continuance thereof, municipal consent shall not be granted to any other company to use or occupy the street, streets, or portions of a street or streets, covered by such contract, for street railway or passenger transportation purposes; which covenants shall be enforceable by bill in equity against such city, in case of attempted breach thereof; and such contract may also provide for the laying or relaying of such tracks upon such terms and under such contingencies and conditions as may be agreed upon. When such contract shall have been made, it shall form a part of the charter of the company, with like force and effect as to all its terms, conditions, stipulations, restrictions, covenants, and provisions as to change of routes as if the same formed a part of the original charter of such company; and no removal of tracks already laid, or postponement of or delay in the time of beginning or completing the work of laying tracks already authorized to be laid, and no change of route therein provided for, shall operate or be construed to deprive or divest any such company, entering into such contract, of any of the rights, franchises, or privileges possessed by it at the time of entering into such contract, so as to operate in favor of any company subsequently formed and seeking to occupy, for street rail-

way purposes, the street, streets, or portions of a street or streets, covered by such contract. Nothing in this section contained, nor any contract made in pursuance thereof, shall be construed to limit or affect in any way, or impose any additional liability for the exercise of, the right of a [steam] railroad company to lay its tracks, over, upon, under, and across such street or streets, or portions thereof.

Section [1913] 1916. Advertisement of Contracts in Trade Journals Authorized.—Any officer of any city whose duty it is by law to advertise for bids for public works, contracts, supplies or equipment *or the sale of city property* may, at his or 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 *regularly* published [in this Commonwealth 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 [: Provided, That no advertisement for bids for public works, contracts, supplies or equipment shall be inserted in any 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; and that 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 (\$15,000) per annum, duly certified by a public accountant; and the rates and charges for such advertising shall not be in excess of those of newspapers of general circulation, as defined by the Newspaper Advertisement Act of May sixteen, one thousand nine hundred twenty-nine (Pamphlet Laws, one thousand seven hundred eighty-four), of a like circulation published in the community in which the public works are to be constructed or the supplies or equipment purchased] *or city property sold.*

Said act revised and amended by adding to article XIX thereof, a new section number 1917.

Section 19.3. Said act is hereby revised and amended by adding to article XIX thereof, a new section numbered 1917, to read as follows:

Section 1917. Sales of Personal Property.—No city property shall be disposed of by sale or otherwise except upon approval of council by ordinance or resolution. In cases where council shall approve a sale of city property, it shall estimate the sale value of the entire lot to be disposed of. If council shall estimate such sale value to be less than two hundred dollars, it shall require a

notice of the proposed sale to be posted for at least ten days on the bulletin board in the city hall, describing and itemizing the property to be sold and directing that bids may be made thereon at the office of the city clerk. Thereafter, council may sell such property, in whole or in part, for the best price or prices obtainable. If council shall estimate the sale value to be two hundred dollars or more, the entire lot shall be advertised for sale once in at least one newspaper, in accordance with the provisions of section one hundred nine of this act, and sale of the property so advertised shall be made to the best responsible bidder; and the bids shall not be opened until at least ten days after the said advertisement. Council may sell any such property at auction, but the provisions as to notice contained in this section shall be likewise observed as to the holding of such auction sales. The provisions of this section shall not be mandatory where city property is to be traded-in or exchanged for new city property.

Section 20. Article XX and sections 2001 to 2008 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article XX and sections 2001 to 2008, inclusive, said act, reenacted, revised and amended.

Article XX

POLICE BUREAU

Section 2001. Appointment, Number, Rank, Compensation and Qualifications of Policemen.—The council shall fix, by ordinance, the number, [rank] grades and compensation of the members of the city police force, who shall be appointed in accordance with the civil service provisions of this act. No policeman shall, after his appointment and qualification, hold at the same time the office of constable. Council shall prescribe all necessary rules and regulations for the organization and government of the police force.

Section 2002. Designation of Chief and Other Officers.—The [council may] mayor shall designate, from the force, the chief and other officers who shall serve as such officers until their successors are appointed and qualified.

Section 2003. Extra Policemen; Compensation.—The [council or the] mayor, [acting by authority and direction of council, on occasions of threatened public disorder or danger,] whenever, in [the] his judgment [of the council or the mayor,] it is necessary for the public safety or to preserve order, may appoint [supernumerary or] extra policemen to serve for such period as the council [or the mayor] may designate, not exceeding [ten] thirty days, whose compensation shall be fixed by council [before or at the time said appointments are made].

Section 2004. Hours of Service; Exceptions; Vacations.—No city shall employ or require any police officer to remain on duty for more than eight hours in any twenty-four consecutive hours, or more than fifty-six hours in any one week, unless in emergency cases for the suppression of riots or tumults or the preservation of the public peace: Provided, That for the duration of [the present] *any war in which the United States is engaged*, and six months thereafter, the hours of service may exceed the number hereinbefore provided as the maximum number of hours of service, and in such cases, council shall provide for the payment of extra compensation for any hours of service in excess of such maximum hours of service, at the same rate as paid for regular service. Nothing contained herein shall prevent any such city from requiring any such police officer to remain on duty or to work sixteen hours in any twenty-four consecutive hours, not more than one day each week, if required by a change in working hours or a change in shifts. *Cities shall permit every member of the police department to have at least twenty-four consecutive hours of rest in every calendar week, except in emergency cases for the suppression of riots or tumults or the preservation of the public peace, in times of war, riot, conflagration, or public celebrations, and to have an annual vacation of not less than fourteen days without diminution of the salary or compensation fixed by ordinance.*

Section 2005. Powers of Policemen to Arrest.—Policemen shall be ex-officio constables of the city, and shall and may, *within the city or upon property owned or controlled by the city or by a municipality authority of the city within the Commonwealth*, 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 violating any of the ordinances of said city for the violation of which a fine or penalty is imposed.

Section 2006. Service of Process; Fees; Payment into Treasury.—Policemen shall have authority to serve and execute *within the city or upon property owned or controlled by the city or by a municipality authority of the city within the Commonwealth* all criminal process or processes for the violation of city ordinances which may be issued by the mayor or any alderman, and shall charge the same fees and costs as pertain by law to the constables of the city for similar services, but the said fees and costs shall be received and collected by the mayor or alderman, and by him paid into the city treasury monthly as herein provided.

Section 2007. Supervision by Mayor.—Policemen shall obey the orders of the mayor and make report to him, which report shall be laid by him before council [whenever required] *monthly*. The mayor shall exercise a constant supervision and control over their conduct.

Section 2008. Extra Compensation Prohibited; Exception; Penalty.—No policeman shall ask, demand or receive any compensation or reward whatsoever for his services other than that provided by ordinance, except rewards offered for the arrest of persons accused of crime committed outside of the city in which they hold office, and witness fees and mileage as [now] provided by law for their appearance in any court of record. Any policeman violating any of the provisions of this section shall be guilty of a misdemeanor in office, and, upon conviction, shall be sentenced to pay a fine not exceeding fifty dollars, or undergo imprisonment not exceeding thirty days, or both, at the discretion of the court, to be followed by dismissal from office. [All payments heretofore made to any policeman on account of witness fees or mileage, for appearance in any court of record, are hereby ratified, confirmed, and made valid to the same extent as though these amendments had been enacted at the time of making such payments.]

Section 20.1. Said act is hereby revised and amended by adding to article XX thereof, a new section numbered 2009, to read as follows:

Section 2009. Compensation or Insurance for Volunteer Policemen.—Each city may make necessary appropriations to provide compensation or insurance for volunteer policemen injured or killed while engaged in the performance of such duties as may be assigned to them in the city.

Section 21. Article XXI and sections 2101 to 2108 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article XXI

FIRE BUREAU

Section 2101. Organization of Fire Bureau; Maintenance; Apparatus.—Each city may organize a fire bureau, with or without pay, make appropriations for the maintenance of the same, prescribe rules and regulations for the government of the officers and companies belonging thereto, and purchase [fire engines, hooks, ladders, trucks, fire alarms] *equipment* and [other] apparatus for the extinguishment, *prevention and investigation* of fires *and for the public safety*.

Said act revised and amended by adding to article XX thereof, a new section 2009.

Article XXI and sections 2101 to 2108, inclusive, said act, reenacted, revised and amended.

Section 2102. Paid Bureau; Election of Officers and Companies.—When a paid fire bureau is organized by any city, the [city] *council* may provide, by *ordinance, for the election or appointment of the officers and companies belonging thereto, *in accordance with civil service provisions where applicable.*

Section 2103. Platoon System; Hours of Service.—The director of the department having charge of the fire bureau in each city shall divide the officers and members of companies of the uniformed fire force in the employ of such cities, or, in the case of a volunteer fire department, the firemen and drivers regularly employed and paid by the city, excepting the chief engineer and assistant chiefs, and those employed subject to call, into two bodies or platoons—one to perform day service, and the other to perform night service. The hours of day service shall not exceed ten, commencing at eight o'clock in the morning; the hours of night service shall not exceed fourteen, commencing at six o'clock in the afternoon; and the hours of day service shall not exceed sixty hours in any one calendar week, and the hours of night service shall not exceed eighty-four hours in any one calendar week, unless the hours of day and night service shall be equalized, in which case neither the hours of day or night service shall exceed seventy-two in any one calendar week: Provided, That for the duration of [the present] *any war in which the United States is engaged*, and six months thereafter, the hours of service may exceed the number hereinbefore provided as the maximum number of hours of service, and in such cases, council shall provide for the payment of extra compensation for any hours of service, at the same rate as paid for regular service in excess of such maximum hours of service. The employes of such fire forces shall be allowed to have at least twenty-four consecutive hours of rest in every calendar week, and to have an annual vacation of not less than fourteen days without diminution of the salary or compensation fixed by ordinance [or resolution]. In cases of riot, serious conflagration, times of war, public celebrations, or other such emergency, the chief engineer of the bureau of fire, or the assistant chief deputy, or chief officer in charge at any fire shall have the power to assign all the members of the fire force to continuous duty, or to continue any member thereof on duty, if necessary. No member of either of said shifts, bodies or platoons shall be required to perform continuous day service or continuous night service for a longer consecutive period than two weeks, nor be kept on duty continuously longer than ten hours in the day shifts, bodies or platoons or

* "ordinance" in original.

fourteen hours in the night shifts, bodies or platoons, excepting as may be necessary to equalize the hours of duty and service, and also excepting in cases of emergency, as above provided.

Section 2104. Fire Marshal; Powers.—Every city may, by ordinance, provide for the creation of the office of fire marshal [to] *who shall* be appointed by the mayor, by and with the approval and consent of council, biennially. [Such fire marshal, under the instructions and orders of the mayor, may enter any building or premises wherein a fire has at any time occurred for the purpose of making such examination as may be deemed necessary to ascertain the cause of burning.] *The fire marshal and his assistants, if council shall provide for such assistants, shall inspect all constructions or buildings within the city or upon property owned or controlled by the city or a municipality authority of the city within the Commonwealth, whether public, private, or business, and shall enforce all laws of the Commonwealth and ordinances of the city relating to such constructions or buildings, for the prevention, containment, or investigation of fire and fire hazards, both as to the constructions or buildings and as to the contents or occupancies thereof. The fire marshal or his assistants shall report to the director of public safety or to council, as council shall by ordinance provide, any faulty or dangerous construction or building or like condition in any building, that may constitute a fire hazard, or any proposed use or occupation of any construction, building or premises, which would create or increase a hazard of fire. He shall investigate and keep a permanent record of the cause, origin and circumstances of every fire and the damage resulting therefrom occurring within his jurisdiction immediately after the occurrence of such fire. The said records of the fire marshal shall be open to public inspection. The fire marshal shall submit to council an annual report consolidating the information contained in said records at the first stated meeting in March of each year. He shall request the mayor or any alderman of the city to investigate, under the act, approved the seventeenth day of April, one thousand eight hundred sixty-nine (Pamphlet Laws 74), the origin of any fire he deems suspicious; and shall be equally subject to appointment and removal and to all the powers and duties under the act, approved the twenty-seventh day of April, one thousand nine hundred twenty-seven (Pamphlet Laws 450, Number 291), as amended, as is the chief of the fire department.*

Section 2105. Obstructing Fire Marshal; [Penalty].—Any person preventing or obstructing, or attempting to prevent or obstruct, said fire marshal while in the

discharge of his duty shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not exceeding fifty dollars, or undergo an imprisonment not exceeding three calendar months, or both, at the discretion of the court.] *Fine.*—*It shall be unlawful for any person to obstruct or prevent or attempt to obstruct or prevent the fire marshal in the discharge of his duties. Council may, by ordinance, establish the types or grades of such criminal conduct, and may establish fines, or imprisonment in default of payment thereof, for such violations. No fine so ordained shall exceed three hundred dollars for any single violation, and no imprisonment in default of payment of such a fine shall exceed ninety days.*

Section 2106. Investigation of Cause of Fire; Power of Mayor.—The mayor of any city may, whenever in his judgment the occasion demands it, issue a subpoena, in the name of the [State] *Commonwealth* of Pennsylvania, to any person or persons requiring them to attend before him or the fire marshal at such time and place as may be named in said subpoena, then and there to testify, under oath or affirmation, which the fire marshal in the absence of the mayor is hereby empowered to administer, as to the origin of any fire occurring within the bounds of such city, and also as to any facts or circumstances that may be deemed important to secure the detection and conviction of any party or parties guilty of the offense of arson or attempted arson.

Section 2107. [Chief of Police or] Fire Chief Ex-officio Fire Marshal.—The [chief of police or the] fire chief of any city [may, by ordinance,] *shall be [made] ex-officio fire marshal thereof in any city wherein the office is not separately filled by council, and in such case all the powers and duties herein given to or imposed upon such fire marshal shall be enjoyed and exercised by such [chief of police or] chief of the fire department [, as the case may be].*

Section 2108. Compensation Insurance for Injured Volunteer Firemen or Special Fire Police.—*Each city may make such appropriations as may be necessary to secure insurance or compensation for volunteer firemen killed or injured while [going to, returning from, or attending fires in said municipality or territory adjacent thereto] engaged in the performance of their duties or as special fire police.*

Section 2201 of article XXII, said act, reenacted, revised and amended.

Section 22. Section 2201 of article XXII of said act is hereby reenacted, revised and amended to read as follows:

Article XXII

BUREAU OF MINE INSPECTION AND SURFACE SUPPORT

Section 2201. Ordinance Creating.—[Each] *Any* city within the limits of the anthracite [region] *or of the bituminous coal regions* of the Commonwealth may, by ordinance, create a bureau of mine inspection and surface support.

Section 22.1. Section 2201A of article XXII of said act is hereby repealed.

Section 22.2. Sections 2202 to 2206 inclusive of article XXII of said act are hereby reenacted, revised and amended to read as follows:

Section 2202. Bureau, How Constituted.—The bureau shall consist of one practical mining engineer, to be appointed by the mayor, 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.

Section 2203. Inspection of Mines.—Members of the bureau may enter, inspect, examine and survey any mine or colliery, within the limits of the city, *in whole or in part*, 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 2204. Operators to Furnish Maps; Contents.—The owner, operator, or superintendent of every coal mine or colliery *within the limits of the city, in whole or in part*, within three months after the passage of an ordinance by any city creating such bureau, shall make or cause to be made and furnished to such bureau an accurate map or plan of the workings or excavations of such coal mine or colliery *within the limits of said city*, 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 2201 A of article XXII, said act, repealed.

Sections 2202 to 2206, inclusive, of article XXII, said act, reenacted, revised and amended.

Section 2205. 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 city, [during the three preceding months,] *and not already so placed upon the map*, except those made within thirty days immediately preceding the time of placing such extensions upon the said map.

Section 2206. 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 city, in the anthracite region *or in the bituminous 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 of the surfaces of such [public highways,] streets [, alleys, courts] and places.

Section 2206 A of article XXII, said act, repealed.

Section 22.3. Section 2206A of article XXII of said act is hereby repealed.

Section 2207. Penalty for Surface Support Violations.—Any person, *corporation or association, being the owner, lessee or operator of any coal mine, and* [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 *concerning surface support of streets and places within the city* shall be guilty of a misdemeanor, and, upon conviction [before any alderman of the city,] *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, *and each five day continuance in any such violation shall constitute an additional and separate offense and be likewise punishable upon conviction thereof.* [All fines imposed under this section shall be paid into the treasury of the city.]

A new section numbered section 2208 added to article XXII of said act, and subsequent section changed from section 2208 to section 2209, and as such reenacted, revised and amended.

Section 22.4. A new section numbered section 2208 is hereby added to article XXII of said act and the subsequent section is hereby changed from section 2208 to section 2209 and reenacted, revised and amended as follows:

Section 2208. General Penalties.—*Any owner, operator or superintendent of any coal mine or colliery who shall violate any of the provisions of this article, except those requiring surface support of streets and places within the city, shall, upon summary conviction thereof*

before a justice of the peace or an alderman of the city, be fined not less than fifty dollars nor more than three hundred dollars, and in default of payment thereof, shall be imprisoned for not more than ninety days for each such violation. Each five day continuance in any such violation shall constitute an additional and separate offense and be likewise punishable upon summary conviction thereof. All fines imposed under this section shall be paid into the treasury of the city.

Section [2208] 2209. Enactment of Ordinances.—Council may enact such ordinances as may be necessary for the enforcement of the provisions of this article and provide penalties for the violation thereof.

Section 23. Sections 2301 to 2337 inclusive, subdivisions (a) and (b) of article XXIII of said act, are hereby repealed and the said article and act are hereby reenacted, revised and amended by adding thereto, new sections numbered sections 2301 to 2311 inclusive in subdivision (a), and sections 2320 to 2324 inclusive in subdivision (b), to read as follows:

Sections 2301 to 2337, inclusive, subdivisions (a) and (b) of article XXIII of said act, repealed, and said article and act are reenacted, revised and amended by adding thereto, new sections numbered sections 2301 to 2311, inclusive, in subdivision (a), and sections 2320 to 2324, inclusive, in subdivision (b).

Article XXIII

PUBLIC HEALTH

(a) Board of Health

Section 2301. Board of Health; Incompatibility.—Each city shall, by ordinance, create a board of health as herein provided, or, in lieu thereof, council shall be the board of health. The board of health shall have five members appointed by council, who shall serve without compensation. Except as otherwise herein provided, membership on the board of health shall be incompatible with every other city office.

Section 2302. Qualifications; Term; Removal.—The members of the board of health shall be residents of the city, and at least two shall be reputable physicians of not less than two years' experience in the practice of their profession. Upon the creation of the board, council shall designate for one appointee a term of one year, for another a term of two years, and so on up to five; thereafter, one member of the board shall be appointed annually to serve for a term of five years from the first Monday of April succeeding his appointment. Council may remove members of the board for official misconduct or neglect of duty. All vacancies shall be filled for the unexpired term.

Section 2303. Oath of Office; Organization; Secretary.—Each member of the board of health shall take the oath of office prescribed in section nine hundred and five of this act. The board shall organize annually on the first Monday of January. The board shall elect a

president annually from among the members and shall appoint a secretary who is not a board member. The secretary shall take the aforesaid oath and shall give a fidelity bond with corporate surety to the city in such amount as council requires. The secretary shall receive such salary as council shall approve.

Section 2304. 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 council, together with the estimate of appropriations needed for the ensuing year. He shall make such reports to the State Department of Health as are required by law or by rule or regulation of the Department, and shall make such other reports and perform such other duties as are required of him by law or by the board of health.

Section 2305. Health Officer; Qualifications; Oath and Bond.—The board shall appoint as a health officer a person with some experience or training in public health work in accordance with rules and regulations of the Advisory Health Board of the State Department of Health, and who shall not enter upon his duties until he has been certified for the office of health officer by the State Department of Health. The health officer shall take the oath required of members of the board, and shall give bond with corporate surety approved by council to the city for the faithful performance of his duties. The amount of the bond shall be fixed by council. The health officer shall be the agent of the board of health.

Section 2306. 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 to be available for the prompt performance of his official duties at all times. He shall quarantine places of communicable diseases in accordance with law and with the rules and regulations of the State Department of Health or of the board of health. He shall execute all laws and rules or regulations for the disinfection of quarantined places. 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 with persons who are

suffering from, communicable diseases, and shall make sanitary inspections, and shall execute the orders of the board of health and all other laws, rules and regulations and orders pertaining to his office. He shall, in the performance of his duties, have the power and authority of a policeman of the city.

Section 2307. Duties of Board of Health.—The board of health shall enforce the laws of the Commonwealth and the rules, regulations and orders of the State Department of Health. The board shall undertake to prevent or diminish the introduction or further spread of infectious or contagious diseases, and otherwise to protect and increase the public health by regulating communication with places of infection or contagion, by isolating carriers of infection or contagion or persons who have been exposed to any infectious or contagious disease, by abating or removing all nuisances which the board shall deem prejudicial to the public health, and by enforcing the vaccination laws; and the board shall make all such rules and regulations as to it appear proper for the preservation or improvement of the public health, consistent with this article and the laws of the Commonwealth. The board shall transmit to the State Department of Health all of its reports and publications and such other information regarding public health in the city as may be requested by the Department.

Section 2308. Powers of Board of Health.—The board of health shall have authority:

(1) To employ agents and employes at such rates or salaries as council shall approve.

(2) To establish and staff emergency hospitals, with the consent of council, in case of the prevalence or threat of any contagious or infectious disease or other serious peril to public health, and to provide for and regulate the management of such hospitals.

(3) To enter upon any premises whatsoever within the city as a body or by committee or by its agents or employes, which premises are suspected of infectious or contagious disease or of any other nuisance prejudicial to the public health, or of the danger of them, for the purpose of examining the premises or of preventing, confining or abating public nuisances.

(4) To conduct investigations and to hold public hearings in the performance of its duties and powers, wherein the president and secretary of the board shall have full power to administer oaths and affirmations but shall receive no fee therefor. For such purposes, the board of health may require the attendance of witnesses and their books and papers.

(5) To establish a force of sanitary police for the enforcement of its rules and regulations, whenever in the opinion of the board the public health of the city requires. To fix the number of such police and the duration of their service and to have the exclusive control and direction of them. The mayor shall detail police from the regular police force or make new appointments in order to provide a sanitary police force, and upon the expiration of the need for such a force the members thereof shall be returned to duty as regular policemen, or, if newly appointed, be dismissed as the mayor may direct, but no permanent increase of the police force shall be made thereby unless council so ordains.

(6) To publish and enforce its rules and regulations.

(7) To provide for or cooperate in providing for general and gratuitous vaccination, disinfection and other public health control programs, and likewise to make available medical relief in such ways as in its opinion will benefit the public health.

(8) To certify to council expenditures in excess of council's appropriations therefor, necessarily incurred by the board by reason of an epidemic, or upon approval of council, for any other immediate and serious peril to public health. Council shall thereupon appropriate sufficient money to meet such additional expenditures.

(9) To prevent, abate or remove conditions found by it to be detrimental to the public health as public nuisances, or to declare and certify to council such conditions and the premises or ways or places harboring them to be public nuisances.

(10) To prescribe regulations for the erection or operation of bone boiling establishments or of repositories of dead animals in the city, and in accordance therewith, to permit or refuse to permit such erections or operations within the city. Any person who shall erect or operate any such establishment or repository in the city without the permission of the board of health, or in violation of its regulations pertaining thereto, shall forfeit and pay to the city the sum of three hundred dollars for every such offense, and the like amount for each month's continuance thereof, to be collected by an action before an alderman of the city, and shall also be subject to indictment for the common law offense of creating and *maintaining a nuisance. Nothing herein shall limit the remedies of injunction or abatement as to any such establishment.

(11) To determine whether or not the keeping or slaughtering of stock animals or fowls in or about any

* "maintaing" in original.

dwelling or part thereof, or in the yard, lot or adjoining property of any such building within the city or parts thereof, is or may become detrimental to the public health. Council may prohibit any such keeping or slaughtering which the board certifies to it as detrimental, or the board may issue permits in accordance with regulations adopted by it for the keeping of such animals or fowls within the city or parts thereof. No such permit shall extend beyond the calendar year within which it was issued, and the fee for each permit shall be one dollar.

Section 2309. Effect of Rules and Regulations.—The rules and regulations of the board of health may be approved by council, and when printed and advertised by council as required by this act in the case of ordinances, shall have the force of ordinances of the city; and all penalties, fines or imprisonment prescribed therein for violations thereof, together with the expenses necessarily incurred in carrying the rules and regulations into effect and the costs of proceedings incident thereto, shall be recoverable for the use of the city, as provided for in the case of other city ordinances.

Section 2310. Fees and Penalties.—All fees and penalties collected or received by the board or any officer thereof in his official capacity shall be paid monthly to the city treasurer for the use of the city.

Section 2311. Proceedings of Board to be Public.—The proceedings of the board shall be public and its journal of proceedings shall be open to the inspection of any taxpayer.

(b) Abatement of Public Nuisances

Section 2320. Definition.—Any condition or usage whatsoever in or about the buildings, structures or land, or the streets or private ways and places, or elsewhere, within the city, whether public or private, which the board of health shall find to be detrimental to the public health is hereby declared to be a public nuisance. Whenever in this subdivision the words “public nuisance” or “nuisance” are used they shall be deemed to mean a nuisance detrimental to the public health, unless a different meaning is specified. The powers of investigation and entering upon premises vested in the board of health and its agents and employes pursuant to its orders shall be available for the determination of public nuisances.

Section 2321. Procedure for the Abatement of Public Nuisances.—Whenever the board of health shall determine, after such examination, investigation or hearing as shall suffice to inform its judgment, that a public nuisance exists or is about to exist, it may order the nuisance to be removed, abated, suspended, altered, or

otherwise prevented or avoided. Notice of such order, bearing the official title of the board and the number of days for compliance therewith and the alternative remedy of the board in case of non-compliance, shall be served upon the person, if any, whom the board deems responsible therefor or concerned therein, and upon the owner or abutting owner of the land, premises or other places whereon such a nuisance is or is about to be, if any. In case no such party or parties can be discovered by the board, the order shall be served by posting a copy or copies thereof conspicuously upon the premises for a period of at least ten days.

Section 2322. Contents of Notice.—The notice of the board's order shall clearly specify:

1. The place and manner of the nuisance or anticipated nuisance as determined by the board;

2. The nature or condition thereof;

3. The board's order with respect to the nuisance or anticipated nuisance;

4. The names of the persons found by the board to be responsible therefor or concerned therewith and the name of the owner, if any, of the land or premises involved;

5. The date of the board's order and the number of days therefrom allowed for compliance with it;

6. The alternative remedy of the board in case of non-compliance;

7. Notice that the persons affected thereby may apply, within the time set for compliance with the order, to the board for a hearing, and may request such stay of execution or modification or rescission of the said order as they shall believe just and proper;

8. The signature of the president of the board, attested by the secretary.

Section 2323. Hearing; Disposition.—If any person affected thereby shall apply for a hearing within the time provided, the board shall promptly notify all interested parties of the time and place of the hearing. The board shall enter upon its minutes such facts and proofs as it may receive, and its proceedings on such hearing and thereafter may rescind, modify or reaffirm its order and require execution of the original or of a new or modified order, as it shall determine and direct. The persons affected shall be notified of the board's final order, and within ten days from the mailing of such notice may appeal therefrom to the court of quarter sessions, which appeal may operate as a supersedeas if the court, upon proper cause shown, so orders, and provided the appellants post bond, approved by the court, for the use of the city, with sufficient surety to cover all the expense and costs of executing the board's order.

Section 2324. Abatement of Public Nuisances by Board of Health or City.—In any case where the persons ordered by the board of health to abate or prevent a public nuisance or anticipated public nuisance refuse or neglect to do so within the time specified in the original or any subsequent order of the board, then, unless the said order shall have been suspended by appeal to the court and proper bond posted, the board may direct its health officer and employes to execute the said order; or if the execution of the said order requires the grading, paving or repaving of private alleys or any similar work upon any property whatsoever within the city or any other work or service that may best be performed or contracted for by the agencies and employes of the city itself, then the board shall certify its order to the city council and council shall thereupon proceed to cause the execution of the order. In any case where the board of health or the council thus abates or prevents or causes the *abatement or prevention of a public nuisance, the cost and expense of such work, services and materials shall be charged to the persons affected in their proper proportions; and upon non-payment of such charges, the city may file a lien therefor upon the affected premises in the name of and for the use of the city, as provided by law for municipal claims, in addition to the other remedies available for the collection of debts due the city. The lien shall attach as of the time the work was commenced, which shall be fixed by the certificate of the health officer or of the city engineer filed with the city clerk.

Section 231. Sections 2345 to 2352 inclusive, subdivision (c) of article XXIII of said act, and section 2360, subdivision (d), of the said article and act are hereby renumbered sections 2330 to 2337 inclusive, subdivision (c), and section 2340, subdivision (d), respectively, and as such are reenacted, revised and amended to read as follows:

(c) Corporations Acting as Boards of Health

Section [2345] 2330. Board of Directors of Corporation to be Appointed Members of Board of Health.—Whenever any corporation not for profit has been or shall hereafter be chartered, whose principal corporate purpose is or shall be substantially to preserve and promote the health of the public of any city, and the control and elimination of disease, and such corporation, in the opinion of the council of such city and the State Department of Health, shall have at its disposal sufficient means to render its assistance of value to the city in the administration of its public health affairs, and is properly organized and managed, said council may, by ordinance,

Sections 2345 to 2352, inclusive, subdivision (c) of article XXIII of said act, and section 2360, subdivision (d), of said article and act are renumbered sections 2330 to 2337, inclusive, subdivision (c), and section 2340, subdivision (d), respectively, and as such are reenacted, revised and amended.

* "abatment" in original.

appoint the members of the board of directors for such corporation as the board of health of such city for a term of five years. The said board of directors shall not be more than nine or less than five in number, and at least two of the members shall be reputable physicians with not less than five years' experience in the practice of their profession. When, by limitation in the charter or by-laws of such corporation, the office of any member of the board of directors shall terminate, such person's membership in the board of health shall also terminate and a vacancy in such membership exist, to be filled as hereinafter provided. Whenever the number of directors of such corporation shall be increased, subject, however, to the aforesaid *maximum limitation of nine, the council of said city may appoint any person added to the corporation's board of directors as an additional member of the board of health for a term equal in the unexpired term of the other members, subject, also, to termination resulting from limitations in the corporation's charter or by-laws as aforesaid.

Section [2346] 2331. Councilmen and School Directors Eligible for Appointment.—Members of council of such city, not more than two in number, and one member of the board of directors of the school district of such city, if they are also members of the board of directors of said corporation, shall be eligible to appointment as members of the board of health of said city.

Section [2347] 2332. Power of Board.—The board of health so appointed shall have all the power and authority and perform the duties now or hereafter conferred and prescribed by law upon boards of health of cities.

Section [2348] 2333. Health Officer.—If the board of directors of such corporation shall employ as manager or chief administrator of the activities and operations of the corporation a reputable physician of five years' experience in the practice of his profession, or in public health work, for a compensation to be paid out of the corporation's funds, it shall be lawful for such council to appoint such manager or chief administrator as the principal health officer of such city, with all the powers and authority and duties now or hereafter to be conferred or prescribed by law upon principal health officers.

Section [2349] 2334. Secretary.—The secretary of the board of directors of such corporation may serve as secretary of such board of health.

Section [2350] 2335. Filling of Vacancies.—As the five year terms of members of such board of health expire, and as vacancies therein occur, the council of such city may appoint successors to those whose terms shall have so expired for further terms of five years,

* "maximum" in original.

and appoint persons to fill vacancies in both cases by selection of the then members of such board of directors, including, in the case of vacancies, the persons in the said board of directors who may be selected to fill the vacancies therein. Such appointment in the case of a vacancy shall be for the unexpired portion of the five year term.

Section [2351] 2336. Appointment and Removal of Health Employes.—The council of such city shall, in all cases where possible, follow the recommendations of said board of health as to appointment and removal of all persons having to do with the administration of the public health affairs of the city. Such appointees shall be required to pass any civil service examination required by any civil service commission lawfully established in such city.

Section [2352] 2337. No Compensation for Members.—The members of such board of health shall serve without compensation from the city.

This subdivision (c) shall be effective only under the circumstances set forth in section two thousand three hundred and [forty-five] *thirty*.

(d) Penalties

Section [2360] 2340. Any person violating any provision of this article or any order of [said] *the* board of health, made under the authority of [the same] *this article*, or of any law or ordinance therein referred to or *authorized*, or who shall obstruct or interfere with any person in the execution of any order of said board, or wilfully and illegally omit to obey any such order, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding one hundred dollars, or undergo imprisonment not exceeding ninety days, or both, at the discretion of the court.

Section 24. Sections 2401 and 2402 of article XXIV of said act are hereby reenacted, revised and amended to read as follows:

Sections 2401 and 2402 of article XXIV, said act, reenacted, revised and amended.

Article XXIV

CORPORATE POWERS

Section 2401. Existing Powers Saved.—The corporate powers and the duties of the officers of cities, now in existence by virtue of the laws of the Commonwealth, and not repealed by this act, shall be and remain as now provided by law.

Section 2402. Powers of City.—Each city is hereby declared to be a body corporate and politic, and shall have perpetual succession, and may:

1. Sue and be sued;

2. Purchase and hold real and personal property for the use of the city;

3. Lease, sell and convey any real or personal property owned by the city, and make such order respecting the same as may be conducive to the interests of the city;

4. Make all contracts, and do all other acts in relation to the property and affairs of the city necessary to the exercise of its corporate or administrative powers;

5. Have and use a corporate seal, and alter the same at pleasure. Every such seal shall have upon it the word "Pennsylvania," the name of the city, and the year of its original incorporation;

6. Display the flag of the Commonwealth or of any county, city, borough or other municipality in the Commonwealth on the public buildings of the city.

7. *To appropriate money for the exercise of powers expressed or implied in this act or any other applicable law, and for like uses to accept gifts or grants of money, other property or services from public or private sources.*

The powers hereby granted shall be exercised by the mayor and councilmen in the manner herein provided.

Section 24.1. Section 2403 of said article and act is hereby reenacted, revised and amended as to the several clauses thereof, and is further revised and amended by reordering two clauses of said section and changing the numbers thereof from 55 and 56 to 54 and 55, respectively, by adding to said section four new clauses numbered 56, 57, 58 and 59, and by reordering and renumbering clause 54 of said section to be clause 60, all as follows:

Section 2403. Specific Powers.—In addition to other powers granted by this act, the council of each city shall have power, by ordinance:

1. Payment of Debts and Expenses.—To provide for the payment of the debts and expenses of the city, and to appropriate money therefor.

2. Hiring of Employes; Salaries.—To provide for and regulate the manner of hiring and discharging employes and laborers, and the fixing of their salaries or compensation.

3. Creation of Necessary Offices, Boards or Departments.—To create any office, public board, or department which it may deem necessary for the good government and interests of the city, and, unless otherwise provided by this act, [elect] appoint the members of any board, bureau or commission; to prescribe the powers thereof, and to regulate and prescribe the terms, duties, and compensation of all such officers, and of all officers who are members of any public board or any department so created, but no ordinance shall be passed increasing or diminishing the salary or compensation of any officer, or

Section 2403 of said article and act reenacted, revised and amended as to the several clauses thereof, and is further revised and amended by reordering two clauses of said section and changing the numbers thereof from 55 and 56 to 54 and 55, respectively, and by adding to said section new clauses numbered 56, 57, 58 and 59, and by reordering and renumbering clause 54 to be clause 60.

of any member of any board, bureau or commission, after his or their [election or] appointment. The provisions of this clause as to the creation of any public board, bureau or commission, and prescribing the duties thereof, shall not apply to the creation of any board of commissioners of water-works of any city wherein the title to the water-works therein located is in the name of the commissioners of water-works.

4. Lock-ups [or Watch-houses] *and Police Stations.*—To provide for the erection, *lease* or purchase of lock-ups [or watch-houses in some convenient part of the city,] *and police stations* for the detention and confinement of [vagrants and] persons arrested [by the police officers, until the persons so arrested can be taken before the proper magistrate for hearing, and committed to prison or discharged. No person shall be detained therein for a longer time than twenty-four hours, except upon the order of the mayor or an alderman legally authorized, who may commit such person for further hearing] *for any cause, or of persons convicted under city ordinances and sentenced for periods not in excess of ten days.*

5. Market Houses and Milk Depots.—To purchase, *lease* and own ground for, and to erect, maintain, and establish, market houses, milk depots, and market places, for which latter purpose parts of any streets, sidewalks or city property may be temporarily used; to provide and enforce suitable general market regulations; to contract with any person or persons or association of persons, companies, or corporations, for the erection and regulation of market houses, milk depots, and market places, on such terms and conditions and in such manner as the council may *prescribe; to raise all necessary revenue therefor as herein provided; and to levy and collect a license tax from every person or persons who may be authorized by council to occupy any portion of the streets, [or] sidewalks *or city property* for temporary market purposes.

6. Collection and Removal of Garbage.—To provide for *and regulate* the collection, [and] removal *and disposal* of garbage, ashes and other waste or refuse material, *either by contract or by municipal conduct of such services, and to impose and collect, by lien or otherwise, reasonable fees and charges therefor, and to prescribe fines and penalties for the violation of ordinances regulating such matters.*

7. Comfort and Waiting Stations and Drinking Fountains; Waiting Rooms [for Females] in Court Houses.—To take, purchase or acquire, [by the right of eminent domain, subject to proceedings provided for by this act in cases of the exercise of the right of eminent

* "prescribed" in original.

domain,] property for the purpose of erecting, providing, maintaining, and operating thereon comfort stations, waiting stations and drinking fountains; and to construct and maintain such stations and fountains *on such property or in any of the [highways] streets or public places* within [their] *its* corporate limits; to provide and equip and maintain in the court house, in co-operation with the county commissioners of the county wherein the city is situated, whenever such city is the county seat, rest or waiting rooms [for females,] and provide [female] attendants therefor. [One-half of the] *The cost of providing such waiting and rest rooms, and of maintaining the same, including salaries and all incidental expenses, shall be paid by the county, and [the other half] by the city [; for all which purposes the council may appropriate moneys], in such proportion as may be agreed upon.*

8. Running at Large of Animals, Et Cetera.—To provide for the erection of all needful pens, pounds, [and buildings] *and other means of confinement*, within or without the city limits; to appoint keepers thereof; and to regulate or prohibit the running *or being* at large of [cattle, hogs, horses, mules, sheep, goats, dogs or other] *stock and domestic animals, [also geese, ducks, chickens,] and fowls [, et cetera];* and to cause such as may be [running] at large to be impounded and sold to discharge the costs and penalties provided for the violations of such prohibitions and the expenses of impounding and of keeping the same and of such sale. *To regulate the maintaining and care of dogs within the city. To regulate or prohibit the keeping of bee hives within the city.*

9. Destruction of Dogs.—To destroy dogs found at large contrary to the laws of the Commonwealth, *or to prohibit or regulate, by its own ordinance, the running at large of dogs, cats or other animals, and, in the enforcement of such regulations, to direct the killing of dogs, cats or other animals, or their seizure and detention, including reasonable charges therefor, or to provide for their sale for the benefit of the city. The powers herein expressed shall be exercised in conformity with the Dog Law of 1921.*

10. Inspection and Regulation of Fireplaces, Chimneys, Et Cetera; Smoke Regulations.—To regulate the construction and inspection of fireplaces, chimneys, stoves, stovepipes, ovens, boilers, kettles, forges, or any apparatus used in any building, manufactory, or business, and to order the suppression or cleaning thereof when deemed necessary [for the prevention of fires]; to regulate and control the production and emission of unnecessary smoke *or fly-ash* from any chimney or other source, except railroad locomotives.

11. Manufacture, Sale [and], Storage and Transportation of Explosives; Offensive Business.—To regulate or prohibit the manufacture, sale, storage, or transportation of inflammable or explosive substances within the city, and to [prescribe limits within which no] regulate or prohibit dangerous, obnoxious, or offensive business [shall be carried on] within the city.

12. Regulation of [Partition] Division Fences, Party Walls, Foundations.—To provide regulations for party walls and division fences and for the foundations of buildings, to enter upon the land or lands, lot or lots, of any person or persons, within the city, at all reasonable hours, by [their] its duly appointed city [engineers] engineer, or building inspectors, in order to [regulate partition fences] enforce such regulations and set out foundations; [and when adjoining parties shall improve or enclose their lots, such fences shall be made in the manner generally used, and be kept in good repair at the equal expenses of the parties, unless the owners or occupants between whom such fences are erected shall agree otherwise] and to prescribe reasonable fees for the service of city officers in the inspection and regulation of party walls, division fences and foundations, and to enforce the payment of the same. To provide fines or penalties for violations of such regulations. In setting out foundations and regulating party walls as to breadth and thickness, the city shall cause the foundations to be laid equally upon the lands of the persons between whom the party wall is to be made, and the builder thereof or his successor in interest shall be reimbursed one moiety of the charge of said wall or for so much thereof as the next builder shall have occasion to make use of before such next builder shall or may use or break into said wall.

13. Public Wells, Cisterns, [Acqueducts] Aqueducts, and Reservoirs.—To establish, make, and regulate public wells, cisterns, [acqueducts] aqueducts, and reservoirs, and to provide for filling the same.

14. Construction of Levees and Ferries; Deepening of Channels.—[To] Subject to the provisions of State law, to provide for the construction and maintenance of levees and ferries within the jurisdiction of the city and within the limits thereof; to erect wharves on navigable waters adjacent to the city, regulate the use thereof, collect wharfage, and establish wharf and dock lines; to provide for protection against floods; to construct and maintain docks, retaining walls, dams, or embankments; and to remove obstructions from, deepen and widen the channels of rivers and streams flowing through or adjacent to the city.

15. Railroad Crossing; Flagmen; Speed of Locomotives.—Subject to the provisions of the Public [Service Company] *Utility Law*, to provide for and require the construction and maintenance of bridges or other crossings over or under railroad tracks; and to enter into contracts with railroad companies for the construction and maintenance of the same; to require the erection of safety-gates and the placing of flagmen or *warning devices* at the intersection of railroads with [public] streets; to forbid the obstruction of the said crossings by locomotives or railroad cars; and to regulate the rate of speed at which locomotives, cars or trains shall pass upon or across the streets within the built-up portions of the city.

16. [Removal of] Nuisances and Obstructions.—[To require the removal of all obstructions and nuisances from the sidewalks, curbstones, gutters, streets, public alleys, ways and street crossings, at the expense of the owners or occupiers of the ground fronting thereon, or at the expense of the person or persons placing the same there or causing the same.] *To prohibit nuisances, including, but not limited to, accumulations of garbage and rubbish and the storage of abandoned or junked automobiles or other vehicles on private or public property, and the carrying on of any offensive manufacture or business, and to require the removal of any nuisance or dangerous structure from public or private places upon notice to the owner, and, upon his default, to cause such removal and collect the cost thereof, together with a penalty of ten per centum of such cost, from the owner, by an action in assumpsit. The cost of removal and the penalty may be entered as a lien against such property in accordance with existing provisions of law. In the exercise of the powers herein conferred, the city may institute proceedings in courts of equity.*

17. Regulation of Signs, Porches, Et Cetera.—To regulate, by uniform rules and regulations, porches, porticoes, benches, doorsteps, railings, bulk, bay or jut windows, areas, cellar doors and cellar windows, signs and sign posts, boards, poles or frames, awnings, awning posts, or other devices or things, projecting over, under, into or otherwise occupying the sidewalks or other portion of any of the streets, [lanes, alleys,] the building of cellars and basement ways and other excavations through or under the sidewalks, and boxes, bales, barrels, hogsheads, crates, or articles of merchandise, lumber, coal, wood, ashes, building materials, or any other article or thing whatsoever, placed in or upon any of the said sidewalks or other portion of said streets [, lanes or alleys]; and also to prevent and [remove] *require or cause the removal of, upon notice, all encroachments thereon. In the exercise of the powers herein conferred,*

the city shall have the same remedies, penalties and procedures as are expressed in clause 16 of this article.

18. Trees.—To regulate the planting, trimming, care and protection of shade trees in *or extending over* the streets.

19. Numbering of Buildings.—To require and regulate the numbering of buildings *and lots*.

20. Cab-stands [; Rates].—To establish stands for coaches, cabs, omnibuses, carriages, wagons, automobiles, and other vehicles for hire, and to enforce the observance and use thereof.

21. [Night Watch] *Police Force*.—To establish and maintain a [night watch and] *police force*, and define the duties of the same.

22. Police Protection, Et Cetera, Parks, Et Cetera; Commitment of Professional Thieves.—To establish and enforce suitable police regulations for the protection of persons and property at public squares, parks, depots, depot grounds, and other places of public resort, *owned, controlled or managed by the city or an agency or bureau thereof, whether within or without the city, in whole or in part*, and for the arrest and commitment of professional thieves, and suspicious persons found in any part of the city who can give no reasonable account of themselves.

23. Rewards for Apprehension of Certain Criminals.—To offer rewards for the arrest and conviction of persons guilty of capital or other [high] crimes within the city.

24. [*Tippling Shops, Gaming, Prosecution] *Gaming, Prostitution, Et Cetera*.—To restrain, prohibit, **and suppress [tippling shops,] houses of prostitution, gambling houses, gaming, cock or dog fighting, and other disorderly or unlawful establishments or practices, desecration of the Sabbath day, commonly called Sunday, and all kinds of public indecencies.

25. Prevent Riots.—To prevent and restrain riots, noises, disturbances, or disorderly assemblies in any street, house, or place in the city.

26. Regulate [Discharge of Firearms] *Guns, Et Cetera*.—To regulate, prohibit, and prevent the discharge of [firearms] *guns*, rockets, powder, or any other dangerous *instrument or* combustible material within the city, and to prevent the carrying of concealed deadly weapons.

27. Sale and Use of Fireworks [; Discharge of Firearms].—To regulate or prohibit and prevent the sale, use and discharge of fireworks, firecrackers, sparklers, and other pyrotechnics [in such cities, and the unnecessary firing and discharge of firearms in the city].

* "Tippling" in original.

** "an" in original.

28. Arrest of Vagrants.—To arrest, fine, or set at work on the streets, or elsewhere, all vagrants found in said city.

29. [Horse] Racing; [on Streets] *Dangerous Practices; Et Cetera*.—To prevent [horse] *the racing of horses, cars and other vehicles*, fast driving or riding in the streets [, highways, alleys, bridges,] or *public places* in the city, and all games, practices, or amusements, therein likely to result in danger or damages to any person or property.

30. Riding or Driving on Sidewalks.—To prevent *or regulate* the riding or driving of animals, or the passage of any vehicle [drawn thereby, or self-propelled,] over, along and across sidewalks, and to regulate the passing of the same through the [public] streets.

31. Regulations of Skating-Rinks, Theatres, Et Cetera.—[To] *Subject to the provisions of general laws of the Commonwealth regarding the same*, to regulate all skating-rinks, operas, theatres, concerts, shows, circuses, menageries, and all kinds of public exhibitions for pay (except those for religious, educational or charitable purposes); and to restrain *and prohibit, under fines or penalties*, all exhibitions of indecent or immoral character.

32. Bathing; Boat Houses and Bath Houses.—To regulate the time and place of bathing in rivers and other public water in and adjoining the said city, and to construct, maintain and manage municipal boat houses and bath houses.

33. [Appropriations for Memorial Day.—To appropriate money for the expenses of Memorial Day services.] *Prohibition of Fire Producing Devices in Certain Retail Stores.—To prohibit the smoking or carrying of lighted cigarettes, cigars, pipes or matches, and the use of matches or fire producing devices, in retail stores arranged to accommodate one hundred persons or more, or which *employ ten or more employes: Provided, That any such ordinance passed under this provision shall not prohibit smoking in any restaurant room, rest room, beauty parlor, executive office, or any room designated for smoking in such store. To provide penalties for the violation of such ordinances.*

34. Appropriations to Posts of Veterans.—To appropriate annually to each camp of the United States War Veterans *in the city*, and to each post of the American Legion, and to each post of the Veterans of Foreign Wars, and to each post of the American Veterans of World War II (AMVETS), to each post of the Catholic War Veterans, Inc., and to each detachment

* "employee" in original.

of the Marine Corps League, and to each Naval Association, and to each post of the Grand Army of the Republic, and to each post of the Disabled American Veterans of the World War, and to each chapter of the Military Order of the Purple Heart, and to each post of the Jewish War Veterans, and to [each] *any other such* organization of ex-service men in the city, incorporated under the laws of the Commonwealth, a sum not to exceed three hundred dollars, to aid in defraying the expenses of Memorial Day and Armistice Day. Where the Grand Army of the Republic has ceased to exist or to function, such appropriation may be made to the Sons of Union Veterans of the Civil War, or, in the absence of such order, to a duly constituted organization which conducts the decorating of the graves of Union veterans of the Civil War. 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.

35. 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 city, by the Adjutant General of the [State] *Commonwealth*, 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 city 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] *city controller* in the manner provided by [law] *this act* for the audit of accounts of [State] *city* moneys.

36. 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] *political subdivision*, to the Commonwealth [of Pennsylvania], for the purpose of assisting the Armory Board of the [Commonwealth] *State* of Pennsylvania in the erection of armories for the use of the National Guard, and to furnish water, *sewer services*, 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.

37. Eminent Domain for National Guard Purposes.—To take, by right of eminent domain, for the purpose of appropriating to [themselves] *itself* for the use of the National Guard of Pennsylvania, such public lands, easements, and public property as may be in [their] *its* possession or control and used or held by [them] *it* 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 city, either by donation, dedication, appropriation, statute, or otherwise, to the contrary notwithstanding].

38. 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; and 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 manner as is provided by this act for the condemnation of land for public purposes.] The power conferred by this clause shall not be exercised to take any church property, grave-yard, **or* cemetery [, or any dwelling-house or the curtilage of the same in the actual occupancy of the owner].

39. Purchase of Burial Grounds for Deceased Service Men.—To appropriate money for and purchase plots of ground in any cemetery or burial ground, within their respective limits, for the interment of such deceased service men as shall hereafter die within such city, or shall die beyond such city and shall have a legal residence within such city at the time of their death, and whose bodies are entitled to be buried by the county under the provisions of existing laws.

* "or" omitted in original.

40. Payment of Rent for Veterans' [Posts and Camps] *Organizations*.—By a two-third 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 rooms in which such [camp or post] *organization* has its regular meetings.

41. Rooms for Meetings of Veterans.—To furnish, upon application, to each organization composed of veterans of the Civil War, veterans of the Spanish American War, veterans of the World War or World War II, veterans of any foreign war, and sons of veterans, a room or rooms in any public building of such city, sufficient for the meeting of each of such organizations at least once each month.

42. Care of Memorials.—To take charge of, care for, maintain, and keep in good order and repair, at the expense of the city, any soldiers' monument, gun or carriage, or similar memorial, situate in the city, 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] *benefit* of such memorials, and to expend the same.

43. Manufacture and Sale of Ice.—To manufacture ice, and to sell the same to the inhabitants of the city at such rates as shall be fixed by ordinance, and to erect, equip, and maintain such buildings and other structures, and purchase or hire and maintain such vehicles, as may be deemed necessary for such purpose.

44. Inspection of Milk.—To provide for the inspection of milk *sold or consumed within the city* and milk depots, and dairies *which offer milk or milk products for retail sale within the city*, under such rules and regulations as will protect the people from adulteration and dilution of the same.

45. Municipal Music.—To appropriate money to defray the expenses of musical entertainments held under the auspices of the [cities] *city*, and for the purpose of having music in any public park or place.

46. Regulation and Licensing of Auction Sales.—To regulate and license sales of merchandise at public auction, other than judicial sales, sales by executors or administrators, or sales by or in behalf of licensed pawnbrokers of unredeemed pledges in the manner provided by law.

47. Aid to Historical Societies.—To make annual appropriations not exceeding one thousand dollars [(\$1,000)] for the support and maintenance of the principal historical society located therein, which shall be incorporated under the laws of the Commonwealth, shall maintain permanent quarters and shall keep the same open to the public, shall have a membership of at least one hundred persons who have paid into the treasury of the society a membership fee of at least two dollars [(\$2.00)] for the support of the society, shall hold, annually, at least two regular meetings that shall be open to the public, and shall at all times maintain facilities for the free storage, deposit, and inspection of official documents and records of the city, and other proper public or historical archives and records.

48. Establishment of Institutions to Collect Educational Collections.—To establish institutions authorized to collect and hold certain *scientific*, educational and economic collections, the object of each being the [scientific, educational, and economic] instruction of the public concerning commerce, manufacturing, mining, and agriculture; said institutions to have power to purchase or accept by gift any real estate, money, or personal property necessary for their use and promotion, and power to use, convey, or transfer the same, as if they were bodies corporate, to be governed by boards of trustees, nominated, appointed, and confirmed in such manner as council may determine.

49. Sprinkling of Streets.—To cause any [public] street, or part thereof, not less than one block, to be sprinkled with water or, if such street is paved, to be cleaned during such time as it may be necessary, at the expense of the owners of property abutting upon the same. Upon the petition of the owners of such property, who shall represent a majority of the feet front on the street or part thereof, it shall be the duty of council to cause such sprinkling or cleaning to be done at the expense of the owners of property abutting thereon. Council may cause such sprinkling to be done with the water of the city, when water works are owned or operated by the city, and the sprinkling carts and apparatus owned by the city, or may contract for the use of said carts and apparatus with the lowest responsible bidder.

50. Electric Wires may be Placed Underground in Certain Districts.—To define a reasonable district within which all electric light wires, telephone and telegraph wires shall be placed under ground in conduits owned and constructed either by the municipality or by corporations owning such wires, or by corporations organized for the purpose of laying such conduits and renting

space therein. In all cases in which such conduits are owned by any private corporation, partnership, or individual, there shall be reserved to the city, whether expressed in the ordinance or not, the right to regulate, by ordinance, the manner in which such conduit shall be used, and the terms and conditions [and rate of rental to be charged for space therein] of such use, and also the right to take such conduits, either by purchase, upon agreement of the owners thereof and the city, or by condemnation proceedings; in which latter case the proceedings for the assessment of damages shall be the same as provided in this act for property taken, injured or destroyed.

The court of quarter sessions [of the county] upon the appeal of any person may review any ordinance passed in pursuance of this [act] clause, and may annul such ordinance if deemed unreasonable, *capricious or arbitrary*, such appeal to be taken within thirty days from the approval of such ordinance.

51. Gift Ambulance; Maintenance.—To acquire, by gift or bequest, and to operate and *maintain a motor ambulance for the purposes of conveying sick and injured [residents of] *persons in* the city and the vicinity to and from hospitals, and, for such purposes, to appropriate and expend moneys of the city.

52. Weighing and Measuring of Commodities.—To regulate the weighing and measuring of every commodity sold in the city, in all cases not otherwise provided for by law, including the measuring of gas, water, and electric currents; to provide for and regulate the inspection and weighing of hay, grain, and coal, and the measuring of wood, bark, and fuel, to be used in the city, and to designate the place or places of inspecting and weighing the same; to regulate and prescribe the place or places for exposing for sale hay, coal, bark and wood; to demand and receive reasonable fees for such inspection, weighing and measuring; for the regulation and stamping of weights and measures; and the regulation and inspection of [gas, water, and electric current meters, and other] meters, *except as otherwise provided by law*.

53. Insurance.—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 city.

To make contracts of insurance with any insurance company, or *nonprofit hospitalization corporation, or nonprofit medical service corporation*, authorized to transact *insurance* business within the Commonwealth, *insuring* its *elected or appointed officers, officials and*

* "main" in original.

employees, or any class or classes thereof, under a policy or policies of group insurance covering life, health, *hospitalization, medical service*, or accident insurance, and to contract with any such company granting annuities or pensions for the pensioning of such [employees] *persons*; and, for such purposes, to agree to pay part or all of the premiums or charges for carrying such contracts, and to appropriate out of its treasury any money necessary to pay such premiums or charges, or portions thereof. All contracts procured hereunder shall conform and be subject to all the provisions of any existing or future laws concerning group insurance and group annuity contracts. *The proper officer, agency, board or commission of the city having authority to enter into such contracts of insurance is hereby authorized, enabled and permitted to deduct from the officer's or employe's pay, salary or compensation, such part of the premium as is payable by the officer or employe and as may be so authorized by the officer or employe in writing.*

[55.] 54. *Parking Lots.*—To acquire by lease, purchase, or condemnation proceedings, any land which in the judgment of city council may be necessary and desirable for the purpose of establishing and maintaining lots for the parking of motor vehicles, and for no other use or purpose, and to regulate the use thereof.

[56.] 55. *Disorderly Conduct.*—To define disorderly conduct within the limits of the city and to provide for the imposition of penalties for [the violation thereof] *such conduct in such amounts, without limitation except as in this act provided, as council shall establish, and notwithstanding any statutes of the Commonwealth upon disorderly conduct and the penalties therefor.*

56. *Official Expenses on City Business.*—To make appropriations for the reasonable expenses of city officials actually incurred in the conduct of city business.

57. *Insurance Against Burglary, Etc.*—To insure against burglary or theft of city property, or against fire and other calamities, and against public liability.

58. *To Provide Against Hazards of War.*—To build or establish bomb shelters or assist in so doing to provide against all hazards of war and their consequences; and for all such purposes, to have the power of eminent domain, to cooperate with any other unit and agency of government, Federal, State, or local, in every lawful way, for purposes of defense and against the hazards of war.

59. *Municipality Authorities; Cooperation with Other Political Subdivisions.*—To form municipality authorities as authorized by law. To cooperate with other political subdivisions in the conduct of city affairs as authorized by law.

[54.] 60. Local Self-Government.—In addition to the powers and authority vested in each city by the provisions of this act, to make and adopt all such ordinances, by-laws, rules and regulations, not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as may be expedient or necessary for the proper management, care and control of the city and its finances, and the maintenance of the peace, good government, safety and welfare of *the city, and its trade, commerce and manufactures; and also all such ordinances, by-laws, rules and regulations as may be necessary in and to the exercise of the powers and authority of local self-government in all municipal affairs; and the said ordinances, by-laws, rules and regulations to alter, modify, and repeal at pleasure; and to enforce all ordinances inflicting penalties upon inhabitants or other persons for violations thereof, not exceeding three hundred dollars for any one offense, recoverable with costs, together with judgment of imprisonment, not exceeding ninety days, if the amount of said judgment and costs shall not be paid: Provided, however, That no ordinance, by-law, rule or regulation shall be made or passed which contravenes or violates any of the provisions of the Constitution of the United States or of this Commonwealth, or of any act of Assembly heretofore or that may be hereafter passed and in force in said city.

Section 25. Sections 2501 to 2521 inclusive of article XXV of said act are hereby reenacted, revised and amended to read as follows:

Sections 2501 to 2521, inclusive, of article XXV, said act, reenacted, revised and amended.

Article XXV

TAXATION

(a) Assessments and Revisions

Section 2501. Election of Assessor; Term; Removal; Qualifications.—The council of each city on the first Monday of January, one thousand nine hundred and [thirty-two] *fifty-two*, and on the first Monday of January in every fourth year thereafter, or as soon thereafter as may be conveniently done, shall elect one person, resident of the city for at least five years previous to his election, a qualified elector thereof, and owner of real estate therein, at the time of his election and during the entire term of service, of the assessed value of at least five hundred dollars, as city assessor, to serve for the term of four years from the first Monday of January in the year in which he is elected. Any assessor may be removed from office by council and the vacancy thus occasioned may be filled in the manner hereinafter provided. Council shall not permit any person elected assessor to enter upon the duties of said office, nor

* 'this' in original.

continue in office, when he does not have and possess all of the qualifications aforesaid. For this purpose council shall have power, by a majority vote of all the members elected thereto, to declare the said office of assessor vacant at any time any person has not or ceases to have the qualifications aforesaid for the said office. They may thereupon fill the vacancy thus occasioned, in the manner hereinafter provided for the filling of vacancies.

Section 2502. Oath of Assessor; Filling of Vacancies.—The said assessor shall, before entering upon his duties, take and subscribe the oath prescribed for municipal officers, and file the same with the city clerk. Any vacancy happening in said office shall be filled by appointment by council, for the unexpired term.

Section 2503. Assistant Assessors; Compensation of Assessors and Assistants.—The council may, during each triennial year and in the intervening years, appoint such assistant assessors, to serve for such length of time as council may authorize, direct, or appoint by ordinance. * Such assistant assessors shall be removable at the pleasure of council. The compensation or salary of the city assessor, and of the assistant assessors, if any, shall be fixed by ordinance.

Section 2504. Assessment of Property; Duties of Assessors.—The assessor shall make, or cause to be made, during the year one thousand nine hundred [forty-five] *fifty-four*, and every third year thereafter, a full, just, equal, and impartial assessment of all property, taxable according to the laws of this Commonwealth for county purposes, and all matters and things within the city subject by law to taxation for city purposes, and a just and perfect list of all property exempt by law from taxation, with a just valuation of the same. But nothing hereinbefore contained shall be construed as making taxable for city purposes the classes of personal property which by law are made taxable exclusively for county purposes at the rate of four mills. With his **assessment he shall return such dimension, description, or quality of each lot or parcel of land as will be sufficient to identify the same, together with the number and kind of improvements. *At the triennial assessment, the assessor shall, if council so directs by ordinance, classify all real estate in the city, in such manner and upon such testimony as may be adduced before him, so as to distinguish between the buildings on land and the land exclusive of the buildings, and he shall certify to the council the aggregate valuation of all real estate subject to taxation for city purposes within each such classifi-*

* "Such assistant assessors to serve for such length of time as council may authorize direct or appoint by ordinance" repeated in original.

** "assessments" in original.

cation. In all cases he shall value, or cause to be valued, the property at the actual value thereof. In arriving at such value the price for which any property would separately bona fide sell, or the price at which any property may bona fide actually have been sold, shall be considered, but shall not be controlling. Instead such selling price, estimated or actual, shall be subject to revision by increase or decrease to accomplish equalization with other similar property within the taxing district. It shall be the further duty of the assessor to return annually a list of all the inhabitants over twenty-one years of age.

Section 2505. Manner of Assessments.—The assessor may assess real estate in the name or names of the registered owner, actual owner (legal or equitable), reputed owner, owner of the life estate, occupier, vendor, vendees, or any person who has or has had any connection with the legal title thereof, or an interest in the premises, or has charge or control thereof; in the name of the husband, when lands are owned by the wife; partnership property, in the name of the partnership or in the name of the partners, or any of them; trust property, in the name of the trustee or trustees, or any of them, or in the name of the cestui que trust; property of a minor, in the name of the minor or his guardian; property of a lunatic, in the name of the lunatic or his guardian or committee; and property formerly belonging to a person, since deceased, may be assessed in the name of the decedent, or in the name of the estate of said decedent, or of his administrator or administrators, executor or executors, or his heirs generally, or in the name of any administrator, executor, or heir; and in assessing the same in the names of the executors, administrators or heirs, it shall not be necessary to designate them by their christian or surnames; and other property not herein provided for may be assessed in the manner the same is assessed for county taxation. This provision shall not prevent the collection, under existing laws, of any tax assessed against property by a sufficient designation or description, where the same has been assessed in the name of any person or persons who are not the owners thereof. Where lands of owners are part within and part without the city limits, they shall be assessed in the same manner and within the same jurisdiction as if the same were being assessed for county purposes.

Section 2506. Duties of Assessors in Other Than Triennial Years.—In the years between triennial assessments, the said assessor shall perform the following duties with reference to the assessment of property and other matters and subjects of taxation, namely: He shall,

(a) Assess any property which has been omitted, and correct any errors of law, fact or judgment which may have been made in making the triennial assessment;

(b) Add to the assessment any property which has ceased to be exempt and any property acquired since the triennial assessment;

(c) Add to the value of any real estate the value of any new building or other new improvements;

(d) Deduct from the value of any property any [depreciation] loss caused by destruction, injury, or otherwise, howsoever;

(e) Where tracts as assessed at the triennial assessment have been subdivided, equalize and apportion the assessment of the lands thus subdivided upon the basis of the value as fixed at the triennial assessments upon the whole lot or tracts;

(f) Where any borough, township, part of a borough or township, or any tract or tracts of land, have been added to the city, since the last triennial assessment, make a full and impartial assessment of the property in the annexed district, and return the same in a like manner as if it were a triennial assessment;

(g) When any property has been transferred or disposed of, make the proper changes, deductions or transfers upon the proper assessment books and duplicates;

(h) Perform such other duties, as may be prescribed by ordinance, necessary to the making of proper assessments or valuations.

Section 2507. Notice to Owner of Change of Valuation; Appeal.—When any property is assessed which had been omitted, errors corrected, or any increase is made in valuation or by additions for any cause after the triennial assessment, or where valuations have been made upon subdivisions of any lot or tract, such assessment shall not be considered final or conclusive without first giving to the person or party affected thereby, at least five days' notice of a time and place where such person or party may be heard by the assessor.

Section 2508. Omitted Property to be Assessed; Liability of Owner for Back Taxes.—When the said assessor ascertains that any property is omitted, he shall assess the same for the omitted years, but not back further than and including the last year of the preceding triennial assessment. The person or party owning said omitted property shall be liable for the tax against the property for the omitted year or years, at the tax rate levied during the omitted year or years, and the proper authorities shall make out the proper tax and place the amount thereof in the hands of the city treasurer for collection.

Section 2509. *Clerks; Power to Administer Oaths; Inventories.—The assessor shall have the right to procure such books, maps, et cetera, as may be necessary to the performance of his duties, and, when authorized by council, may employ clerks for the purpose of transcribing and making duplicate and assessment books. He, and each of them, shall have power to administer oaths, and to require, under oath, of every taxable or person in charge or control of any property, an inventory of his taxable property, with his estimate of the just, full, fair, and impartial value thereof, and which, in his judgment, the same would bring at a fair public sale thereof. Such estimate shall not be conclusive, but shall be subject to revision by increase, decrease or equalization with other property.

Section 2510. Information from Real Estate Registry Office; Sufficiency of **Descriptions.—Where any city has established a registry of real estate by law, the assessor shall have the right to obtain from the official in charge of said registry such information as to the registered owners of real estate as said department is able to furnish, and under such rules and regulations as shall be established by ordinance of council. It shall be a sufficient description of any real estate in any assessment books or duplicates to designate the same by such city lot number, other number or designation, as is used on the registry.

Section 2511. Time of Completion of Assessments.—The assessor shall complete his triennial assessment, and the annual assessments in intervening years, on or before the first day of September in each year, or as soon thereafter as practicable. He may, with the approval of the board of revision and appeals, add to the duplicates in the hands of the city treasurer any subject of taxation omitted therefrom, and rectify any and all errors and mistakes made therein.

Section 2512. Liability for Neglect.—Any assessor or assessors who shall wilfully omit, neglect, or refuse to assess any property liable to taxation shall be held responsible to the city for any loss or damage caused thereby.

Section 2513. Ordinances to Regulate Assessments, Transfers, Appeals, Et Cetera.—The council of each city may pass such ordinances as it may deem proper and necessary, providing for and regulating the manner of making the assessments, valuations, and transfers, and

* "Clerk" in original.

** "Description" in original.

the taking of appeals to the board of revision and appeal, and regulating * proceedings before said board on any and all matters not specifically provided for in this act.

Section 2514. Board of Revision of Taxes and Appeals.—The council of each city shall constitute the board of revision of taxes and appeals, and the city clerk shall serve as clerk thereof.

Section 2515. New Assessments.—The council, in any years other than a triennial year, if it shall deem a new assessment necessary, may, on or before the first day of May, issue its precept to the city assessor and by ordinance or resolution require him to make out and return a full, just, and equal assessment of property within the city, or such parts thereof as may be deemed advisable.

Section 2516. Revision of Assessments.—The said board of revision of taxes and appeals shall take and receive the triennial and yearly assessment as returned by the city assessor, and may revise, equalize, and [/or] alter such assessments, in any and every year, by increasing or reducing the valuation either in individual cases or by wards, or parts of wards; rectify all errors, and add to the assessment book, and to the duplicate thereof in the hands of the city treasurer, any property or person subject to taxation omitted therefrom, and any real estate in such city which has been exempt from taxation, and has ceased to be occupied and used for the purpose or purposes which entitled it to such exemption, as taxable for the portion of the year commencing at the time when the right to exemption ceases. Such property shall thereupon become subject to taxation, at the rate fixed for the year, for the proportionate part of the year during which it is not entitled to exemption.

Section 2517. Hearing of Appeals.—The board of revision of taxes and appeals may require the attendance of the assessor and assistant assessors, or any of them, or other citizens, before them for examination on oath or affirmation. It shall hear and determine all appeals by taxpayers from the assessments made by the city assessor, at such time and place as it may prescribe, *conformably with law as to notice to the taxable and his filing of notice of intention to appeal.*

Section 2518. Notice of Taxables of Assessments; Appeals.—[When the time or time and place for the meeting or meetings of the board of revision and appeals shall have been fixed, the] *The assessor shall give, or cause to be given, at least five days' printed or written notice to each taxable of the city, whose property is newly as-*

* "the manner of making assessments valuations and transfers and the taking of appeals to the board of revision and appeal and regulating" repeated in original.

*essed, or whose last previous assessment has been increased or diminished of the amount *or sum for which such taxable stands rated in any [triennial] assessment [also of any sum or amount for which said persons stand rated by reason of any change in his, her, or their assessment in any intervening year, for any cause] whatsoever [, together with the time and place of hearing appeals]. The said notice shall also inform the taxable of the requirements of this section as to appealing from any assessment. Such notice may be served personally or by posting on the premises or by mailing the same to the last known address of the taxable. Any person dissatisfied or aggrieved by [the] any assessment, or any change thereof, made by the assessor, may appeal to the said board of revision and appeal, [and be heard at the time and place fixed in the notice.] by filing with the board a statement in writing of intention to appeal, setting forth:*

(1) The assessment or assessments by which such person feels aggrieved;

(2) The address to which the board shall mail notice of when and where to appear for hearing.

The statement of intention to appeal shall be filed with the said board not later than thirty days after the notice of assessment has been mailed to the taxable at his last known address, or has been served upon him personally, or has been posted upon the premises. No appeal shall be permitted except upon such a statement of intention as herein required, nor may any taxable appeal as to an assessment not designated in his statement of intention to appeal. The board shall fix the time and place of hearing appeals and shall notify the taxable thereof.

Section 2519. Power of Assessor to Administer Oaths.—For the purposes of all hearings, and for all other purposes necessary to the discharge of his duties, the assessor shall have authority to administer oaths and affirmations touching any matter relating thereto.

Section 2520. Custody of Assessment Books; Completion of Work of Board.—The board of revision of taxes and appeals shall procure and have the custody and control of all books relating to assessment of city taxes, and keep them arranged according to wards and dates, and shall furnish the city assessor the necessary books for making the assessment, which, on the completion of such assessment, shall be returned to such board of revision of taxes and appeals. The board shall complete its labors, and the hearing and determination of all appeals, on or before the first day of December of each year, or as soon thereafter as practicable, after which the assessment shall be copied, by wards, into a tax duplicate or duplicates for the use of the city. The

* "of" in original.

assessment, so corrected and copied, shall be and remain a lawful assessment for the purpose of city taxation until altered as provided in this article. *The board shall give notice in writing within five days after its disposition of each appeal, advising the taxable of its decision.*

Section 2521. Appeals from Decisions of Board; Costs.—Any owner of taxable property who may feel aggrieved by the [last or any future] *decision of the board of *revision of taxes and appeals as to the assessment or valuation of his taxable property* may appeal from the decision of the board of *revision of taxes and appeals to the court of common pleas of the county within which such property is situated, and, for that purpose, may present to said court, or file in the prothonotary's office, within sixty days after *mailing notice to him that the board of revision of taxes and appeals have held the appeals provided for by law and acted on the said assessments and valuations, a petition signed by him, his agent, or attorney, setting forth the facts of the case.* The court shall thereupon, after notice to the said board of *revision of taxes and appeals, hear the said appeal and the proofs in the case, and make such orders and decrees touching the matter complained of as to the judges of said court may seem just and equitable, having due regard to the valuation and assessment made of other property in such city. The costs of the appeal and hearing shall be apportioned or paid as the court may direct. The said appeals shall not, however, prevent the collection of the taxes complained of, but in case the same shall be reduced, then the excess shall be returned to the person or persons who shall have paid **the same.

Sections 2551, 2552, 2554, 2555, 2557, 2564, 2568 and 2569 of subdivision (b), article XXV, said act, are respectively numbered sections 2531 through 2538, inclusive, and as such are reenacted, revised and amended.

Section 25.1. Sections 2551, 2552, 2554, 2555, 2557, 2564, 2568 and 2569 of subdivision (b), article XXV of said act, are hereby respectively renumbered sections 2531, 2532, 2533, 2534, 2535, 2536, 2537 and 2538 and as such are reenacted, revised and amended to read as follows:

(b) Levy and Collection

Section [2551] 2531. Tax Levies.—[The council of each city] *Council* may, by ordinance, levy and provide for the collection of the following taxes:

1. A tax for general revenue purposes, not to exceed fifteen mills on the dollar in any one year, on all persons and property taxable according to the laws of the Commonwealth for county purposes; the valuation of such property to be assessed as hereinbefore provided.

* "revisions" in original.

** "the" omitted in original.

2. A tax in addition to the above, on all persons and property taxable for county purposes, for the payment of interest on bonded indebtedness, and for sinking fund requirements for the payment of loans.

3. A poll-tax for general revenue purposes, not exceeding five dollars annually, on all inhabitants above the age of twenty-one years. Any ordinance of council fixing the rate of taxation for any year at a mill rate shall also include a statement expressing the rate of taxation in dollars and cents on each one hundred dollars of assessed valuation of taxable property.

4. *The council of any city may, by ordinance, in any year levy separate and different rates of taxation for city purposes on all real estate classified as land, exclusive of the buildings thereon, and on all real estate classified as buildings on land. When real estate tax rates are so levied, they shall be uniform as to all real estate within each such classification; and such rates shall be determined by the requirements of the city budget as approved by council.*

Section [2552] 2532. City Treasurer to Be Tax Collector.—The city treasurer, by virtue of his office, shall be the collector of the city, county, school, and [poor] *institution district* taxes, assessed or levied in the city by the proper authorities therein.

Section [2554] 2533. Oath of City Treasurer as Collector of Taxes.—At the time the city treasurer enters upon his duties, he shall take and subscribe his oath of office as collector of city, county, school, and [poor] *institution district* taxes, which oath shall be filed with the city clerk.

Section [2555] 2534. Office for Receipt of Taxes; Supplies.—The city treasurer, as collector of taxes, shall keep his office in the same place occupied by him as city treasurer, which shall be kept open for the receipt of taxes at all times during business hours. All printing and stationery supplies shall be furnished by the proper authorities, respectively.

Section [2557] 2535. Date of Delivery of Duplicate; Collection.—The council of each city and the [poor] *institution district* authorities, now empowered or which may be hereafter empowered to levy taxes upon persons and property within the city, shall, on or before the first day of March in each year, make out and deliver their respective duplicates of taxes assessed to the city treasurer, as the collector of the said taxes, which shall be collected by the city treasurer, by virtue of his office as aforesaid. The proper county and school authorities shall make out and deliver the county and school duplicates of their respective taxes in such city at the time and in the manner provided by the school laws of the

Commonwealth. All duplicates of taxes placed in the hands of said treasurer shall at all times be open to proper inspection of the taxpayers and of the proper auditing and examining officers of said city, county or school district, as the case may be, and shall be delivered by said treasurer at the expiration of his term to his successor in office.

Section [2564] 2536. [Payment Over of Taxes;] Deposits.—[Monthly Report.—The city treasurer, as collector of taxes, shall, once a month, or oftener if required by ordinance or resolution, pay over to himself as city treasurer, or charge himself therewith, all the city and poor taxes collected by him. At the same time he shall make a report or return to the director of accounts and finance, verified by affidavit, showing by whom and upon what real estate the city and poor taxes have been paid.] *The city treasurer as collector of taxes shall pay over to himself as city treasurer, in accordance with the provisions of the Local Tax Collection Law, all the city taxes collected by him.* He shall at the same time deposit [said moneys] *all the city taxes so paid over to him* into a bank or financial institution, which shall be a city depository named by the city council [, if a depository has been so named]. All such deposits shall be made in the name of the city treasurer as such, or in the name of the city, as council may provide.

Section [2568] 2537.—Tax Liens; Schedule of Uncollected Taxes; Liability for False Return.—Upon the settlement of the duplicates of city, county, [poor] *institution district*, and school taxes which by law are made a lien on real estate, the city treasurer, as collector of said taxes, shall make out schedules of said city, county, school, or [poor] *institution district* taxes uncollected upon his duplicates, or those delivered to him by his predecessor, with a brief description of the properties against which the same are assessed, for the purpose of having the same entered for lien or sold, according to law. The failure of the said collector to collect the said taxes from personal property, when the same could have been collected shall not impair the lien thereof or affect any sale made for the collection thereof. In case any such collector shall make any wilfully false return, he shall be liable therefor to any person or persons injured thereby.

Section [2569] 2538. Certification of Schedule.—The schedule of unpaid city taxes shall be certified by the city treasurer, as collector of taxes, to the city solicitor for filing in court, with the like force and effect as if certified by the city treasurer under existing laws. The schedule of unpaid school and [poor] *institution district* taxes shall be certified to such officer or person as is now,

or shall hereafter be, designated to receive the same for filing as a lien in court; and where no such *person is designated, the said schedule may be certified to the solicitor of the authority levying the tax, who may cause the said taxes to be registered as a lien in court, under existing laws, and the certifying of the said schedules by the city treasurer, as a collector, shall in all cases have the like effect as if the same had been certified by the city treasurer, as aforesaid.

Section 25.2. Sections 2575 to 2586 inclusive of subdivision (c), article XXV of said act, are hereby respectively renumbered sections 2541 to 2552 inclusive and as such are reenacted, revised and amended to read as follows:

Sections 2575 to 2586, inclusive, of subdivision (c), article XXV, said act, are respectively renumbered sections 2541 to 2552, inclusive, and as such are reenacted, revised and amended.

(c) Sales of Real Estate for Delinquent Taxes

Section [2575] 2541. Public Sale of Property to Satisfy Tax Claims.—In addition to other remedies provided for the collection of delinquent city taxes, the city treasurer may sell at public sale, in the manner hereinafter provided, any property upon which the taxes, assessed and levied, have not been paid and have become delinquent, *unless such property has already been purchased and is held for the benefit of all the tax levying authorities concerned.*

Section [2576] 2542. Time of Holding Sales.—Such sales shall be made on the first Monday in June, in the year succeeding the year in which the respective taxes are assessed and levied, or on any day to which such sale may be adjourned, or on any first Monday of June in any succeeding year.

Section [2577] 2543. Certification of Schedules of Taxes.—Where the treasurer has not already in his hands the duplicates of said taxes, or certificates or schedules thereof, any receiver or collector of taxes, or other person having such delinquent taxes in his hands, shall certify to the city treasurer schedules of all unpaid taxes, with descriptions of the property assessed.

Section [2578] 2544. Advertisement of Sales.—The city treasurer shall advertise for sale any of the property upon which it appears the taxes have not been paid, as shown by the duplicates in his hands, or by the returns or schedules certified to him, as aforesaid. Said advertisement shall be made, once a week for three successive weeks prior to the day of sale, in at least two newspapers of general circulation, printed and published in the city, and, in case two newspapers are not published in said city, then publication shall be made in two newspapers printed and published in the county in which the city is

* "persons" in original.

situate. The city treasurer shall also cause to be posted or tacked, in a conspicuous place on each parcel or lot of land advertised for sale, at least ten days prior to the day of sale, a notice stating that said property will be sold by said treasurer, for delinquent taxes, on a certain day and time, and at a certain place within the city, for which posting of notice he shall receive and tax as costs twenty-five cents for each notice. No sale shall be valid where the taxes have been paid prior to said advertisement, or where the taxes and costs have been paid after advertisement and before sale.

Section [2579] 2545. Redemption of Lands by Owner or Interested Person.—Any lands so sold may be redeemed by the owner, or by any one interested in said lands, at any time within two years after such sale, by the payment to the city treasurer of the full amount which the purchaser paid to said treasurer for taxes and costs, and twenty-five per centum in addition thereto. When the sale has been made for less than the taxes and costs, the party redeeming shall pay to said treasurer the balance of taxes and costs which were not made by the sale of the said property. In case there are any city taxes, levied either before or after the said sale, which remain unpaid, the person redeeming shall pay the same; and in case the purchaser has paid any taxes of any kind whatsoever, assessed and levied against said property, the same shall be reimbursed to said purchaser before any redemption shall take effect.

Section [2580] 2546. Record of Sales to be Kept; City May Purchase Lands at Sale.—The treasurer shall keep in his office a book, in which he shall enter all the sales made by him, giving a description of each property sold, the name of the person as the owner thereof as the same appears upon the duplicate, or has been returned to him, the time of sale and the price at which sold, together with the cost. The city shall have the right to bid, at any such sale, the amount of taxes and costs, and, if necessary, purchase such lands.

Section [2581] 2547. Payment of Purchase Price by Purchaser; Resale for Default.—Any purchaser or purchasers at said treasurer's sale, except the city, as soon as the property is struck down, shall pay the amount of the purchase money, or such part thereof as may be necessary to pay all the taxes and costs, as also one dollar and fifty cents for the use of the prothonotary, for entering the report of the treasurer, filing surplus bond, and acknowledgment of the treasurer's deed, as hereinafter mentioned. In case said amount is not forthwith paid, after the property is struck down, the sale may be avoided and the property put up again by the city treasurer, at said sale or at any subsequent sale.

Section [2582] 2548. Return of Sale.—The city treasurer shall *promptly* make a report and return to the court of common pleas, wherein he shall set forth, (a) a brief description of each parcel of real estate sold; (b) the name of the person (where known), in which the same is assessed; (c) the amount of tax, and the year for which the same was assessed; (d) the time when and the names of the newspapers in which the advertisement for sale was made, with a copy of said advertisement; (e) the time of sale; (f) the name of the purchaser; and (g) the price for which each respective property was sold.

Section [2583] 2549. Confirmation of Sale; Disposition of Objections.—Upon the presentation of said report or return, if it shall appear that said court that such sale has been regularly conducted, under the provisions of this subdivision (c) of this article, the said report and sales so made shall be confirmed nisi; in case no objections or exceptions are filed to any such sale in the office of the prothonotary within ninety days from the date of such [sale] *confirmation*, a decree of absolute confirmation shall be entered, as of course, by the prothonotary. Any objections or exceptions to such a sale may raise the legality of the taxes for nonpayment of which the real estate was sold or the return thereof, or the validity of the sale for the reason that the tax was actually paid, or question the regularity or legality of the proceedings of the treasurer in any respect. In case any objections or exceptions are filed, they shall be disposed of according to the practice of the court, and, when the same are overruled or set aside, a decree of absolute confirmation shall be entered by the court. If such objections or exceptions are sustained and the court deems the defect not amendable, it shall, by its order or decree, invalidate the sale. From the decisions of the court of common pleas any party affected may appeal to the Supreme or Superior Court as in other cases. If no objections or exceptions are filed as herein provided, or if such objections or exceptions are finally overruled and the sale confirmed absolutely, the validity of the assessment of the tax and the validity of the proceedings of the treasurer, with respect to such sale, shall not thereafter be inquired into judicially in equity or by civil proceedings by the person or persons in whose name such property was sold, his, her or their heirs, or his, her or their grantees or assigns, subsequent to the date of the assessment of the taxes for which such sale was made, and such sale, after the period of redemption shall be terminated, shall be deemed to pass a good and valid title to the purchaser as against the person or persons in whose name such property was sold, provided the pur-

chaser has filed the bond for surplus moneys as hereinafter provided.

Section [2584] 2550. Filing of Surplus Bond.—After any sale of property or lands for delinquent taxes has been confirmed by the court, as aforesaid, the purchaser or purchasers, where the bid exceeds the taxes and costs as aforesaid, shall make and execute to the said treasurer for the use of the persons entitled, a bond for the surplus money that may remain after satisfying and paying all the taxes and costs, as aforesaid, with warrant of attorney to confess judgment annexed thereto. The treasurer shall forthwith file said bond in the office of the prothonotary of the proper county, at the number and term where said report and return is filed. The surplus bond, filed as aforesaid, from the time of the date of the deed for property thus sold, shall bind as effectually, and in like manner as judgments, the land by said treasurer sold, into whose hands or possession they may come. The owners of said lands at the time of sale, their heirs or assigns or other legal representatives, may, at any time within five years after such sale, cause judgment to be entered in said court upon said bond, in the name of said treasurer, for the use of said owners, their heirs, assigns or legal representatives, as the case may be. In case the moneys mentioned in said bonds, with legal interest thereon from the time it is demanded, be not paid within three months after such entry, execution may forthwith issue for the recovery thereof.

Section [2585] 2551. Acknowledgment and Delivery of Deeds.—When the purchaser has paid the amount of his bid, or such portion thereof as he is required to pay under this subdivision, and has given the surplus bond as above required, the city treasurer shall make the said purchasers, his or their heirs or assigns, a deed in fee simple for the lands sold, as aforesaid, and the said deed or deeds [to] duly acknowledge in the court of common pleas. Such acknowledgment shall be duly entered and recorded by the prothonotary of said court in the treasurer's deed book. For such service and the entry of the report of the city treasurer, and filing surplus bond, the prothonotary shall receive the sum of one dollar and fifty cents for each property sold.

Section [2586] 2552. Acknowledgment of Receipt of Redemption Money.—Where the owner or other person interested in the land thus sold shall redeem the same, and pay the satisfaction fee, the city treasurer shall acknowledge the receipt of the redemption moneys upon the margin of the acknowledgment of the treasurer's deed, as the same is entered and recorded in the prothonotary's office. Thereafter said deed shall be void

and of no effect. Thereupon such owner or persons interested shall be entitled to have the treasurer's deed delivered up to him, her or them by the purchaser for cancellation. The city treasurer shall pay to said purchaser all the moneys he had paid at the time of sale, together with the twenty-five per centum penalty thereon; and shall enter upon the book of sales kept by him, as hereinbefore provided, an acknowledgment or receipt showing that the owner or party interested redeemed the same, giving date of redemption and amount of money received.

Section 25.3. Article XXV of said act is hereby further revised and amended by adding thereto a new subdivision, subdivision (d), containing three new sections numbered 2560 to 2562 inclusive, as follows:

Article XXV, said act, further revised and amended by adding thereto a new subdivision (d) containing three new sections 2560 to 2562, inclusive.

(d) City Sales of Real Estate Purchased from Tax Claim Bureau

Section 2560. Real Estate Purchased from Tax Claim Bureau.—Any city may, by ordinance, sell in the manner hereinafter provided, any real estate owned by the city which has been acquired by the city by purchase from a tax claim bureau at public sales held by said bureau pursuant to the provisions of the Real Estate Tax Sale Law, its amendments and supplements, upon which real estate the city held at the time of such sale a lien or liens for municipal improvements.

Section 2561. Sale Procedure.—After an ordinance has been passed authorizing and directing the sale of real estate as provided for in section two thousand five hundred sixty, the city treasurer shall advertise such proposed sale once a week for three successive weeks in at least one newspaper of general circulation in the city. The advertisement shall give a brief description of the property to be sold sufficient to identify it as to location and character, and the terms and conditions of sale shall ask for sealed bids for the purchase thereof, direct all bids to be sent to the city clerk on or before a certain date, and give any other information relating to such bids as may be necessary; shall announce that the bids shall be opened and read at a public meeting of council to be held at a time fixed, and that council shall have the right to reject any and all bids.

Section 2562. Delivery of Deed.—If council accepts the highest responsible bid for such property, the city treasurer shall, within twenty days after such acceptance and upon the receipt of the purchase money, deliver to the successful bidder, his heirs or assigns, a deed in fee-simple for the property sold as aforesaid, which shall be acknowledged by the mayor and attested by the city clerk.

Sections 2601 to 2603, inclusive, subdivisions (a) and (b) of article XXVI, said act, reenacted, revised and amended.

Section 26. Sections 2601 to 2603 inclusive, subdivisions (a) and (b) of article XXVI of said act are hereby reenacted, revised and amended as follows:

Article XXVI

LICENSES AND LICENSE FEES

(a) General Powers to License

Section 2601. License Taxes for Revenue Purposes.—Council may, by ordinance, levy and collect a license tax for general revenue purposes, not exceeding one hundred dollars *each annually, on all photographers, auctioneers, contractors, druggists, hawkers, peddlers, produce or merchandise vendors, bankers, brokers, other than real estate brokers, undertakers, pawnbrokers, trading stamp or premium companies or dealers, warehouses or storage houses or places, *parking lot operators*, merchants of all kinds, persons selling or leasing goods upon installments, grocers, confectioners, butchers, wholesale meat dealers, restaurants, billiard parlors, bowling alleys, billiard tables, pool tables, and other gaming tables [, drays, hacks, carriages, omnibuses, automobiles, carts, wagons, and street railway cars, including all other vehicles used in the city for hire or pay;] *and devices; all motor buses and motor omnibuses, trackless trolley omnibuses and street railway cars transporting passengers for pay or hire within the limits of the city, or from such city only to points within a radius of ten miles of the city's boundaries; all skating rinks, operas, theatres, shows, circuses, menageries, and all kinds of public exhibitions for pay, except those for religious, **educational or charitable purposes; all lumber dealers, commission men, and all persons who make a business of buying lumber for sale at wholesale or retail; all furniture dealers, saddle or harness dealers, stationers, jewelers, livery or automobile or boarding-stable keepers; all market-house companies and owners of market-houses, garage companies, and owners of other than private garages, express companies or agencies; and all persons operating vehicles upon the streets of the city as carriers for hire or compensation, which persons regularly pick up or deliver or otherwise transport wholly within or to or from the city property at an annual rate not in excess of ten dollars per vehicle so used, but not to exceed one hundred dollars per annum from any person so operating: Provided, however, That in lieu thereof, the city may levy an annual license tax not in excess of one hundred dollars upon any such person having a place of business located within the city; and, where no other license tax is imposed,*

* "each" omitted in original.

** "education" in original.

on telegraph, telephone, steam-heating, gas, natural gas, water, electric light or power companies, or agencies or individuals furnishing communication, light, heat or power, by any of the means enumerated; and to regulate the collection of the same. If any person, firm or corporation conducts a business at more than one location in a city, the business conducted at each location, shall be considered and assessed as a separate and independent business, and shall be subject to a license tax: Provided, That the word "business," as used in this [clause] *sentence*, shall not be construed to mean or include any place of business at which the principal business conducted is that of selling, storing or distributing products manufactured by the firm, person or corporation operating the business. The taxes assessed under this section shall be in addition to all other taxes levied and collected by the city, county, or Commonwealth.

Section 2602. [Licensing] *Regulation of Motor Vehicles*.—Each city may regulate the transportation by motor vehicles [(not operated on tracks)] *not operated on tracks* of passengers or property, for pay, within the limits of the city, or from points in the city to points beyond the limits of the city. In such regulation, the city may impose reasonable license fees, make regulations for the operation of vehicles, and may designate certain streets upon which such vehicles may only be operated.

Section 2603. *Licensing of Plumbers*.—Council may license and provide for the collection of a license fee from all persons, copartnerships, associations, or corporations engaged or engaging in the business or work of plumbing[and/or] *or house drainage*, who shall have been certified as being qualified to engage in such business, in such manner as may be provided by ordinance or the laws of the Commonwealth.

(b) Restrictions

Section 2610. *Farmers*.—No city shall levy or collect any license fee from any farmer [who sells] *upon his sales of his own produce in or about the streets of the city, but this provision shall not be deemed to restrict in any other way a city's power to regulate the conduct of such business*.

Section 26.1. Section 2611 of said article and act is hereby repealed.

Section 26.2. Sections 2612 and 2613, subdivision (b), are hereby renumbered sections 2611 and 2612 respectively, and as such and together with sections 2620 to 2622 inclusive, subdivisions (c), and sections 2630 to 2640 inclusive, subdivision (d), all of said article and act are reenacted, revised and amended as follows:

Section [2612] 2611. *Insurance Business*.—No city shall levy or collect any license fee upon insurance com-

Section 2611, said article and act, repealed.

Sections 2612 and 2613, subdivision (b), renumbered sections 2611 and 2612, respectively, and as such and together with sections 2620 to 2622, inclusive, subdivision (c), and sections 2630 to 2640, inclusive, subdivision (d), said article and act, are reenacted, revised and amended.

panies or their agents, or insurance brokers, authorized to transact business under the laws of the Commonwealth.

Section [2613] 2612. Persons Taking Orders by Samples.—No city shall levy or collect any license fee or mercantile tax upon 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.

(c) Transient Retail Merchants

Section 2620. Power to Regulate and License.—Every city shall have power, by ordinance, to regulate and license each and every transient wholesale and retail business within such city for the sale of goods, wares, 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 wholesale and retail business, and to enforce such ordinances by penalties not exceeding three hundred dollars and by other appropriate means. The amount of such license shall not exceed two hundred dollars for each month, or fractional part thereof, during which any such sale is continued.

Section 2621. Exceptions.—Nothing contained in this subdivision (c) 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 and milk products.

Section 2622. Commonwealth License Saved.—Nothing contained in this subdivision (c) 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) Public Dances and Dance Halls

Section 2630. Definitions.—The term “public dance” or “public ball,” as used in this subdivision (d), shall be taken to include any dance or ball conducted in connection with instruction in dancing for hire, and any dance or ball to which admission may be had by the payment of a fee or by the purchase, possession, or presentation of a ticket or token, or in connection with which a charge is made for caring for clothing or other

property, and any dance or ball to which the public generally may gain admission with or without the payment of a fee.

The term "dance hall" or "ball room," as used in this subdivision, shall be taken to include any room, place, or space in which a public dance or public ball, as herein defined, shall be held, and any room, hall, or academy in which classes in dancing are held and instruction in dancing is given for hire.

Section 2631. Permits for Dances; Fees.—No person, persons, society, club, or *corporation shall hold a public dance or public ball, within the limits of any city, without having first obtained a permit therefor from the mayor thereof, except for dances held and conducted by regularly established instructors in dancing in connection with such instruction.

The fee for such permit, which shall be paid at the time of the issuing thereof, shall be one dollar for each public dance or ball.

Section 2632. Dance Halls, Ball Rooms, and Academies to be Licensed; Fees.—It shall be unlawful to hold or conduct any public dance or public ball, or to hold or conduct classes in dancing, or to give instructions in dancing for hire, in any hall, ball room, or academy, within the limits of any city, unless the dance hall or ball room or academy, in which the same may be held, shall have been duly licensed for such **purpose.

Application for such license shall be made by the proprietor of such dance hall or ball room or academy to the mayor, who is hereby authorized to issue the same.

The fee payable for each such license granted hereunder shall be as follows:

In the case of dance halls maintained and conducted in connection with regularly established instruction in dancing, and exclusively used in such connection, the annual license fee shall be ten dollars.

In the case of all other dance halls and ball rooms, the annual license fee shall be fifteen dollars.

Each license granted hereunder shall expire on the first day of June of each year.

The fee payable for each license granted hereunder shall be for the whole or any portion of a calendar year, and all moneys received by way of license fees hereunder shall be paid into the general fund of the city.

Every licensed public dance hall or ball room or academy shall post its license in a conspicuous place within the hall where the dance is held.

Section 2633. Mayor to Investigate Applications.—It shall be the duty of the mayor to cause an investigation of all applications for public dance hall or ball

* "coporation" in original.

** "purposes" in original.

room licenses to determine whether or not the dance hall, ball room, or academy, sought to be licensed, complies with the rules, regulations, ordinances, and laws applicable thereto, and, in making such investigation, he shall, when desired, have the assistance of any department of the government of the city.

Section 2634. Safe and Proper Places only to be Licensed.—No license for a public dance hall or ball room or academy shall be issued until it shall be ascertained that the place for which it is issued complies with and conforms to all laws, ordinances, health and fire regulations, applicable thereto, and is a safe and proper place for the purpose for which it shall be used, properly ventilated, and supplied with sufficient toilet conveniences.

Section 2635. Revocation of Licenses.—The license of any public dance hall or ball room or academy may be forfeited or revoked by the mayor for disorderly or immoral conduct on the premises, or upon proof that the dance hall, ball room, or academy was frequented by disorderly or immoral persons, or for the violation of any of the rules, regulations, ordinances, and laws governing or applying to public dance halls, ball rooms, or academies, or public dances. If at any time the license of a public dance hall, ball room, or academy shall be forfeited or revoked, at least three months shall elapse before another license or permit shall be granted for dancing on the same premises.

Section 2636. Licensed Places to be Kept Clean.—All public dance halls or ball rooms or academies shall be kept at all times in a clean, healthful, and sanitary condition, and all stairways and other passages and all rooms connected with public dance hall, ball room, or academy shall be kept open and well lighted.

Section 2637. Inspection of Licensed Places; Power of Police to Vacate.—All public dance halls, ball rooms, and academies shall be subject to inspection by the police department of the city at all reasonable times and whenever they are open for dancing, instruction in dancing, or for any other purpose.

Any police officer shall have the power to cause the place, hall, or room where any public dance or ball is given to be vacated whenever any provision of any law or ordinance with regard to public dances and public balls is being violated, or whenever any indecent act shall be committed, or when any disorder of a gross, violent or vulgar character shall take place therein.

Section 2638. Persons Under Sixteen to be Excluded after Nine O'clock Post Meridian.—It shall be unlawful, after nine o'clock post meridian, to permit any person to attend or take part in any public dance who has not reached the age of sixteen years.

Section 2639. Halls to be Closed at One O'Clock Ante Meridian.—All public dances shall be discontinued, and all public dance halls shall be closed, on or before the hour of one o'clock ante meridian: Provided, however, That upon the application of a bona fide organization or society, and upon an investigation by the proper authority, the mayor may grant such organization or society a permit to continue a dance until two o'clock ante meridian.

Section 2640. Penalties.—Any person, persons, society, club, or corporation who shall violate any of the provisions of this subdivision (d), shall be subject to a penalty of twenty-five [(\$25.00)] dollars, to be recovered with costs in a summary proceeding.

Section 26.3. Said act is hereby amended by adding to article XXVI thereof, a new subdivision (e), and therein a new section, section 2650, as follows:

(e) *Parking Lots for Profit*

Section 2650. Regulation; Revenue; Bonding Operators.—For the purposes of protecting the public and of raising revenue, each city may enact suitable ordinances regulating the business of operating for profit parking lots within the city. License or permit fees may be charged and collected from the operators of such parking lots. Any city adopting such a regulatory plan shall require from each operator a bond to be approved by council for the protection of the public from loss of or damage to the vehicles parked, stored or placed under the jurisdiction of such parking lot operator.

Section 27. *Sections 2709 and 2710 of article XXVII of said act are hereby renumbered sections 2702 and 2703 respectively, and they and section 2701 of said article and act are reenacted, revised and amended as follows:

Article XXVII

INDEBTEDNESS

Section 2701. No Unauthorized Debt to be Created.—No city and no municipal department thereof shall create any debt, except in pursuance of previous authority of law or ordinance.

Section [2709] 2702. Sinking Fund Commissioners; Duties.—The mayor, treasurer, and director of *accounts and finance* of each city shall constitute a board of commissioners of the sinking fund of the city. The mayor shall be chairman, and the director of *accounts and finance*, secretary. The board shall keep the accounts of the sinking fund, see to their proper application, and

Said act amended by adding to article XXVI thereof, a new subdivision (e) and therein a new section 2650.

Sections 2709 and 2710 of article XXVII, said act, renumbered sections 2702 and 2703, respectively, and they and section 2701, said article and act, are reenacted, revised and amended.

* "Section" in original.

superintend the investment of the same, in accordance with law and the directions of the city council. The council shall not direct the investment of any moneys to the credit of the sinking fund except in the loans of the city, the loans of the United States, or the loans of the [State] *Commonwealth* of Pennsylvania. The income derived from any investments shall be credited and applied to the sinking fund or funds, respectively. The commissioners shall meet as often as may be necessary, keep a record of the proceedings, and shall annually, in the month of January, make a report to council of the condition and application of the fund, together with such recommendations in relation thereto as they shall deem expedient.

Section [2710] 2703. *Liability in Bond Transfers.*—All certificates of loans, issued by a city, shall be transferable by the legal owners thereof without any liability on the part of the transfer agents of the city to recognize or see to the execution of any trust, whether expressed or implied, or constructive, to which such loans may be subject, unless such transfer agents of the city 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.

Sections 2801 to 2807, inclusive, article XXVIII, said act, re-enacted, revised and amended.

Section 28. Sections 2801 to 2807 inclusive of said act are hereby reenacted, revised and amended to read as follows:

Article XXVIII

PROCEDURE FOR THE EXERCISE OF EMINENT DOMAIN AND THE ASSESSMENT OF DAMAGES AND BENEFITS BY VIEWERS

Section 2801. *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, abutments and approaches therefor, the construction of slopes, embankments, and sewers, *including storm water drains*, the erection and extension of water-works, *wharves and docks*, public buildings, public works, filtration plants, sewage systems, sewage treatment works, garbage disposal plants, *lands and places for the disposal of ashes and other refuse materials*, gas plants, electric power and light plants, houses of detention, workhouses, poor farms, poor houses, fire engine houses, hospitals, public auditoriums, memorial buildings, [gymnasiums, public baths, swimming pools, indoor recreation centers,] comfort stations, waiting stations, drinking fountains, and libraries, the establishing of [parks and playgrounds] *recreation places*, and changing of

watercourses, the acquisition of lands for use of National Guard, and for all other purposes authorized by this act and the laws of the Commonwealth, a city may enter upon, appropriate, take, use, occupy, injure, or destroy, private lands, property, toll bridges, or material. *All such action by the city shall be provided for by ordinance. A copy of each such ordinance shall be recorded within thirty days after its enactment in the office of the recorder of deeds in and for the county or counties wherein such property is situate, and shall be indexed in the name of the property owner affected thereby. A copy of the ordinance shall be sent by registered mail to each such property owner at his last known address.*

Section 2802. Restrictions as to Certain Property.—In addition to the restrictions made by other provisions of this act in particular cases, no city 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 2803. Right to Damage for Injury to Property.—The right to damages against [cities] *a city* 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 *and in all other cases where the power of eminent domain is exercised by a city and property is taken, injured or destroyed.*

Section 2804. 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 [thereof] *thereon*, if, in the opinion of the viewers, such vacation [damages]

injures 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 this article.

Section 2805. Damages Due to Grade; Plan to Show Change of Grade.—In all cases of 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 is to be opened and widened.

Section 2806. Pledge of Credit of City in Lieu of Bond.—Whenever any city shall exercise the power of eminent domain for any of the purposes authorized by law, it shall not be necessary for such city to give or tender security for the taking, injury or destruction of [private] *land or* property, but the funds raised, or proper and lawful to be raised, by the power of taxation in such city, shall be pledged and are hereby made security to the owner or owners of [private] *land or* property so taken, injured or destroyed for all damages which they may sustain on account of such taking, injury or destruction, and such cities shall not be required to give or tender any further security or to give or tender any bond or bonds whatsoever unless, by proper petition, it shall appear to the [proper] court that the power of taxation of such city is not sufficient security in a particular proceeding, in which case [said] *the* court may require such city to give or tender *such* bond [therein] *for the benefit of the petitioners* with surety *as the court shall deem sufficient additional security therein.*

Section 2807. [Possession of Property upon Tender or Bond.—Whenever, in any condemnation proceedings, any city has upon order of the court 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 city shall have the right to immediate possession of the property.] *Right To Immediate Possession.*—*Any city shall have the right to immediate possession, use or control of land or property condemned by it unless, upon petition, the court has ordered bond with surety to be given, whereupon the city's right to immediate possession shall be postponed until compliance with the order of the court.*

Section 28.1. *Sections 2808 and 2809 of said article and act are hereby repealed.

Section 28.2. Sections 2810 to 2817 inclusive are hereby respectively renumbered 2808 to 2815 inclusive and as such are reenacted, revised and amended as follows:

Section [2810] 2808. Notice to Quit; Possession; Procedure.—If the owner, lessee, or occupier shall refuse to remove his personal property or give up possession of any property taken by the city in the exercise of its power of eminent domain, the city 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 up 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 city possession.

Section [2811] 2809. 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 [2812] 2810. 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 city taking, injuring or destroying *such land or property* for said purpose, shall furnish the [board] jury of [viewers] view with a correct plan of all *lands and properties* affected showing all buildings or other structures thereon, their [width,] length, [elevation, and cubical contents,] *width and height, their interior cubic capacity, and square feet of floor space*, 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] *the private land or property*.

[Said] *The 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.

Sections 2808 and 2809, said article and act, repealed.

Sections 2810 to 2817, inclusive, renumbered sections 2808 to 2815, inclusive, respectively, and as such are reenacted, revised and amended.

* "Section" in original.

Section [2813] 2811. *Condemnation Petition to Specify Liens; Exception.*—In all proceedings instituted for the condemnation and appropriation of property by the exercise of the right of eminent domain, excepting proceedings to ascertain damages and benefits by reason of 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 [2814] 2812. *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 [filed in the office of the prothonotary] *from the Department of Revenue, the courts of the Commonwealth and 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 [2815] 2813. *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 rules 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 or* 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 [2816] 2814. 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] *city* 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 [2817] 2815. 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 city, 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 the *land or property* affected as assessed for the purpose of taxation.

Section 28.3. Said act is hereby amended by adding to article XXVIII, two new sections numbered 2816 and 2817, as follows:

Section 2816. Exemptions and Appeals.—In all cases of the exercise of the power of eminent domain by a city, any interested party may file exceptions in the court of

Said act amended by adding to article XXVIII, two new sections 2816 and 2817.

* "to" omitted in original.

common pleas, raising questions of law as to damages assessed or of benefits assessed, whether by the report of viewers or otherwise, within thirty days or such other period as the court shall allow, from the determination or confirmation nisi of such damages or benefits. From findings of fact as to any matters involved in any such assessments, any interested party may appeal to the court of common pleas, as provided herein for exceptions.

Section 2817. Payment Into Court; Satisfaction.—Whenever any interested party shall not have appealed from the assessment of damages or benefits to the court of common pleas and when no exceptions are pending therein which might affect him, the city may, if the party refuses to accept payment of the award or judgment, petition the court to pay the amount thereof and costs into court. The court shall order proper notice to be given the person so refusing to accept payment, and thereafter, if the court shall find no good cause for such refusal, shall order payment of the award and costs into court and the satisfaction of the award or judgment thereon.

Sections 2818 to 2848, inclusive, said article and act, reenacted, revised and amended.

Section 284. Sections 2818 to 2848 inclusive of said article and act are hereby reenacted, revised and amended as follows:

Section 2818. Proceedings where Assessments by Viewers Waived.—In any proceeding to ascertain the damage caused to any owner of [property] *lands or properties* by reason of the appropriation of property for public use where the owner and city cannot agree upon the amount of damage done, the parties may, by agreement, waive the right to have such damages assessed by viewers, and the owner may file his claim in the court of common pleas of the county, and rule the [defendant] *city* to plead thereto within fifteen days from the service of such rule upon [the city] *it*, and the suit shall be proceeded with as if an award of viewers has 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 property affected.

Section 2819. 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 city or any person [affected] *interested*, shall appoint three viewers, from the board of viewers of the

* "thereon" in original.

county [to view and ascertain the damages done and/or the benefits which have accrued by reason of the said taking, use, occupancy, or injury, or the erection and construction of public improvements], and appoint a time, not less than twenty nor more than thirty days thereafter, when the viewers shall meet at [or upon] *the place of the improvement and view the same and the premises affected thereby.*

Section 2820. When Viewers may be Appointed.—The viewers provided for in the preceding section may be appointed before or at any time within six years after the entry, taking, appropriation or injury, or the passing of an ordinance providing for the same, or the completion of any public improvement.

Section 2821. 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] *general circulation in the city*, and by handbills posted upon the premises, or otherwise, as the court shall direct.

Section 2822. Swearing Viewers; Hearings; [Report] *Schedules of Damages and Benefits*.—The [said] viewers [, or any two of them,] having been [duly] sworn or affirmed faithfully, justly, and impartially to decide and [to make] a true report *to make* concerning all matters [and things] to be submitted to them, and in relation to which they are authorized to inquire [in pursuance of the provisions of this act,] and having viewed the premises [or] *and* examined the *land or* property [or materials], shall [estimate] *hear all parties interested and their witnesses*, and *shall* determine the [quantity, quality, and value of said land so taken, occupied, or injured, or to be taken, occupied, or injured, or the property and materials so used or taken away, if any, as the case may be, and having a due regard to and making just allowance for the advantages which may have resulted, or which may seem likely to result, to the owners of said land, property, or material in consequence of the making of the improvements aforesaid, for which the property or materials, if any, are to be taken; and having made a fair and just comparison of said advantages and disadvantages, they shall estimate and determine their value, and whether any, and, if any, what amount of] damages [has been or may be sustained] *for land or property taken, injured or destroyed, if any*, and to whom the same are payable, and [after] having determined the damages [sustained to all the properties affected by said improvement], together with the benefits, they shall prepare a schedule thereof [and make report thereof to the said court].

Section 2823. Assessment of Damages and Benefits.—[Council may provide, by ordinance, for the payment of] *The damages [sustained by making public improvements, or by the vacation of any public highway, either by the city, or in the case of the taking or injury of property for roads and streets by assessment upon property benefited by such improvement; and in] may be paid, in whole or in part, by the city, or may be assessed, in whole or in part, upon the land or property benefited.* In the latter case, the viewers [appointed to assess] *having first determined the damages apart from the benefits shall [also] assess the total cost of the improvement, or so much thereof as may be just and reasonable, upon [any property] the lands or properties peculiarly benefited [by such improvements such amount, for the special advantages which may accrue to the said several properties from such improvements, as they may deem proper], including in the assessment all parties for which damages have been allowed, and shall report the same to the [said] court. The total assessments for benefits shall not exceed the total damages awarded or agreed upon.*

Section 2824. 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 and property affected thereby.*

Section 2825. 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 2826. 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 a place where the viewers will meet and exhibit their schedule and hear all exceptions thereto.

Section 2827. 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 [city] county in which the city 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 once 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 2828. Report of Viewers; Plan of Improvements.—After making whatever changes are necessary, the viewers *or a majority thereof* shall report to the court, [within three months from the date of their appointment, unless the time for so doing shall be extended by the court,] showing the damages and benefits allowed and assessed in each case, and file therewith a plan *to be secured or prepared by the viewers* showing the improvement, the *lands or properties* taken, injured or destroyed, and *lands or properties* benefited.

Section 2829. 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 [of the meeting of viewers,] *provided for in 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 2830. City to Pay [Court] Costs of Proceedings.—*The cost of the proceedings, including court costs, except the compensation of the viewers, shall be paid by the city.*

Section 2831. Judgment for Amount of Award; Execution; Collection of Assessments; Payment of Damages into Court in Certain Cases.—If any damages be awarded, and the report be confirmed [by the said court, judgment shall be entered thereon, and, if] *absolutely,* the amount thereof *shall* be [not] paid within thirty days after the entry of such judgment, *and if not so paid,* execution may then issue thereon [as in other cases of debt,] for the sum so awarded; but assessments for benefits shall be collected as provided by law.

When no appeal is taken *from the report* as herein-after provided, and judgment of *absolute confirmation* is entered, and the parties to whom damages have been

awarded refuse to accept payment of such award or judgment, then it shall be lawful for such city, 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 2832. Exceptions to Report of Viewers.—Within thirty days after the filing of any report, any party [affected] *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 2833. 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 [, at the expiration of thirty days,] enter a decree that the report is confirmed absolutely.

Section 2834. 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 2835. Appeals from Confirmation after Exceptions.—Within three months after the confirmation of any report, following the filing of exceptions thereto, any party [affected] *interested* may appeal from the decree of the court below to the Superior or Supreme Court, as the case may be.

Section 2836. 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 2837. 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 city or any party affected 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 2838. Certificate of Judge of the Court Below.—Upon the request of the city, or any party affected, 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 2839. 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 2840. 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 2841. 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 2842. Appeals from Reports of Viewers for Jury Trial.—Within thirty days after any report of viewers is filed in the court of common pleas, any party whose land or property is taken, injured or destroyed, or [who is assessed benefits] *against whom benefits are assessed*, or the city 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 to 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. The appeal 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 2843. 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 2844. 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 2845. 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 2846. Appeals not to Prevent Filing Liens.—No appeal [taken under this article] *to any court* shall prevent the filing of liens by any city for any assessment [of benefits] 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 2847. Discontinuance of Proceedings.—If any city 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*, [and within thirty days after the filing of the report of the viewers assessing damages and benefits,] the city shall not be liable to pay any damages which have or might have been assessed, but all costs upon any such proceedings shall be paid by the city, [including attorney's fees to be fixed by the court on behalf of the owner or owners] *together with any actual damage sustained by reason of such proceeding.*

Section 2848. Assessments to Bear Interest.—All assessments for benefits, costs, and expenses [, and all damages allowed,] 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 city treasurer.*

Section 285. Said act, approved the twenty-third day of June, one thousand nine hundred thirty-one (Pamphlet Laws 932), is hereby amended by adding to article XXVIII thereof, three new sections numbered 2849, 2850 and 2851, to read as follows:

Said act amended by adding to article XXVIII thereof, three new sections 2849, 2850 and 2851.

Section 2849. Damages to Bear Interest.—The amount of damages allowed in a report of viewers or otherwise for the taking, injury or destruction of land or property by the city's exercise of the right of eminent domain shall, as finally confirmed, bear interest at the rate of three per centum per annum from the date of the confirmation nisi of the report.

Section 2850. Title Acquired.—In all cases where land or property is acquired by the city in eminent domain proceedings other than for street purposes, or is acquired by gift, purchase or otherwise, the title obtained by the city shall be in fee simple or like absolute ownership: Provided, That in particular instances a different title may by agreement or consent be acquired.

Section 2851. Land Transferable.—If the project or purpose for which any land or property has been taken, received or acquired shall be abandoned for any reason, the land or property thus obtained may be used for other city purposes or sold, leased or otherwise disposed of.

Section 29. Sections 2901 to 2906 inclusive, subdivision (a), sections 2915 to 2922 inclusive, subdivision (b), and sections 2930 to 2936 inclusive, subdivision (c), all of article XXIX of said act, are hereby reenacted, revised and amended to read as follows:

Sections 2901 to 2906, inclusive, subdivision (a), sections 2915 to 2922, inclusive, subdivision (b), and sections 2930 to 2936, inclusive, subdivision (c), all of article XXIX, said act, reenacted, revised and amended.

Article XXIX

STREETS [AND HIGHWAYS]

(a) Plans and Location

Section 2901. General Plan of [Highways] *Streets*.—Every city shall have a general plan or *topographical survey* of its [highways,] streets [and alleys], including those which have been laid out but not opened. *It shall be made by the city engineer, or by such other professional engineer in civil engineering and assistants as council may engage.*

Section 2902. Filing Plans; Subdivisions.—The plan shall be filed in the office of the city engineer, or other proper office of the city, and all subdivisions of property thereafter made shall conform thereto.

Section 2903. Alterations; Maps and Plots to be Approved.—The location of [highways,] streets [or alleys] laid out by council shall not afterwards be altered without the consent of council. No [map] *plan* or plot of [highways,] streets [or alleys] shall be entered in any public office of the county until approved by council.

Section 2904. Location of [Highways] *Streets*.—Cities may, by ordinance, locate [highways,] streets, [and alleys,] and include therein [highways,] streets [and alleys] theretofore opened or used for [highway purposes] *public travel*; and may locate [highways,] streets [or alleys] theretofore opened or used for [highway purposes] *public travel* of a greater width; and may revise the lines of such [highways,] streets [or alleys] in accordance therewith, and place the same on the general plan of such city. All subdivisions of property thereafter made shall conform thereto.

Section 2905. Locations not to Authorize Entry.—No such location shall authorize the entry upon or appropriation of any property, within such located [highway,] street [or alley], not theretofore opened or used for [highway purposes] *public travel*, nor shall the same interfere in any way with the rights of the owners to the full use of such property, except as hereinafter provided.

Section 2906. No Damages Allowed for Erections Upon Located [Highways] *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 [highway,] 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.

(b) Opening, Widening, Extending, Straightening
and Vacating

Section 2915. Power to Open, Etc.—Cities, with or without any petition of property owners, may open, widen, straighten, alter, extend and improve, and may establish or reestablish the grades of, and keep in order and repair and in safe passable condition, any [highway,] street, [avenue, alley or lane,] or any part thereof, within the city limits, or may vacate and discontinue the same whenever deemed expedient for the public good [(including the right to vacate highways laid out by the Commonwealth which have remained unopened for thirty years)], and provide for the payment of the cost thereof, either in whole or in part, from the general revenues of the city. *Cities may vacate highways laid out by the Commonwealth within their limits, which highways have remained unopened for thirty years.*

Section 2916. Ordinances when no Petition is Presented.—Any ordinance for the opening, widening, straightening, extending or vacating of any [highway,] street, [avenue, alley or lane,] without petition of property owners, shall be adopted by the affirmative vote of at least four members of council. 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 city, once a week for three consecutive weeks, immediately following the introduction thereof, and in case no newspaper is published in the city, then in the same manner in one newspaper published in the county.

Section 2917. **Erection of Improvements Restricted.**—Any ordinance widening or straightening any [highway,] street, [avenue, alley, lane] or part thereof, shall fix the new line or lines and may require that thereafter no owner or builder shall erect any new building or rebuild or alter the front of any building already erected without making it conform to the new lines. In which case the land owner's right of action shall accrue only when the city actually enters on and occupies the land within the said lines, or the said building is located or relocated to conform to said lines.

Section 2918. [Petitions] *Petition* for Opening, Etc. —[Petitions] *A petition* *to [councils] *council* for the opening, widening, straightening, altering, extending, vacating, or for the establishing or reestablishing of the grade of any [highway,] street, [avenue, alley or lane,] shall be signed by a majority, in number and interest, of the owners of property abutting on the line of the proposed improvement or vacation as fixed at the time of [its] presentation *of the petition*, and shall be verified by the affidavit of one or more of the petitioners. 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 2919. **Notice of Ordinance and Petition; Appeal.**—Upon the approval of any ordinance passed pursuant to said petition, notice shall be given, once a week in one newspaper, as required by section one hundred and nine of this act, and 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 the proposed improvement, 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] *of the said ordinance*.

Section 2920. **Appeal from Ordinance.**—Any person interested may, within thirty days from the passage of

* "to" omitted in original.

** "conscipuous" in original.

the ordinance, [present a petition] *appeal from the validity of the ordinance* to the court of common pleas [of the county, whereupon the court shall determine whether such improvement was petitioned for by the requisite majority.] *questioning the legality of the petition for improvement or of the said ordinance or of both.* If said court shall find [that it was not so petitioned for] *the petition or ordinance materially defective under the law*, it shall declare the ordinance void, otherwise it shall approve the same.

Section 2921. Effect of Failure to Appeal.—[If no appeal is taken, or if the court on appeal approves the ordinance, the city may proceed with the improvement. Thereafter all parties interested shall be estopped from denying the fact that the petition was signed by the requisite majority of the property owners.] *The parties interested shall not question the legality of the petition and ordinance in any manner or matter or at any time whatever, except as provided in section two thousand nine hundred and twenty of this act, except that they may appeal from the court of common pleas to the Supreme or Superior Courts according to law.*

Section 2922. Assessment of Damages and Benefits.—In any proceedings under this subdivision of this article, viewers shall be appointed, damages awarded, and benefits assessed as provided in this act for such proceedings.

(c) Grading, Paving, Macadamizing, Et Cetera

Section 2930. Power to Grade, Pave, Macadamize, Et Cetera.—Every city may grade, pave, macadamize or otherwise, improve any [public highway,] street, [avenue, lane or alley,] or part thereof, and the sidewalks thereof when included as a part of the improvement, have the same set with curbstone, and provide for the drainage thereof. Every city may also provide for the improvement of any highway, *or* street, [avenue, lane or alley,] or any sections or parts thereof, in length, in the space between the curb, gutter, or actual carriage-way line and the property line, either by an original work or improvement thereon, or by a change, repair, renewal, or alteration in the said [highway,] *street or* curb, *or in* parking spaces, or shade trees, or by changing, altering, renewing, replanting, pruning, or otherwise improving the same, in any or all of said particulars.

Section 2931. Payment of Cost of Improvement.—The costs and expenses [thereof] *of things done under section two thousand nine hundred and thirty of this act* shall be paid, in whole or in part, by the city, or by the owners of real estate bounding and abutting thereon, which cost and expense upon the abutting real estate

shall be assessed according to the foot-front rule, or according to the benefits, as council shall, by ordinance, determine, except that in case of grading only, the said costs and expense shall be assessed according to benefits.

Section 2932. Assessment of Cost by Foot-Front Rule.—When the costs and expenses, or any part thereof, are to be paid for by the foot-front rule, the [city] council shall assess or cause to be assessed the said cost and expenses upon the real estate bounding or abutting on the line of the improvement, by an equal assessment on said property in proportion to the number of feet the same fronts on the respective street, [lane or alley,] or part thereof, to be improved. The council may provide for an equitable reduction from the frontage of lots at all street, [alley,] railroad, or like intersections, or where, from the peculiar or pointed shape of the lots, an assessment for the full frontage would be inequitable.

Section 2933. Assessment of Costs According to Benefits.—When the cost and expenses, or any part thereof, of any grading, paving, macadamizing, or other improvement of any [highway,] street, [avenue, lane or alley,] or part thereof, is to be paid for by the owners of real estate abutting or bounding *thereon* as aforesaid, according to benefits, the same shall be assessed by viewers appointed by the court of common pleas, as provided in this act for the assessment of benefits by viewers.

Section 2934. Ordinance for Improvement at Expense of Property Owners upon Petition.—Council may, by ordinance, provide for the paving, macadamizing, grading, or other improvement of any [, highway] street, [avenue, lane or alley,] or part thereof, at the cost and expense of the abutting property owners in whole or in part, upon the petition therefor of a majority in number or interest of the owners of property abutting or bounding on the line of the proposed improvement, to be verified by the affidavit of one or more of the petitioners. A majority in interest of owners of undivided interests in any piece of property [to] *shall* be deemed and treated as one person for the purpose of said petition.

Section 2935. Ordinance for Improvement at Expense of Property Owners without Petition.—Council may, by ordinance, provide for the paving, macadamizing, grading or other improvement of any [highway,] street, [avenue, lane or alley,] or part thereof, at the cost and expense of the abutting property owners, in whole or in part, without petition therefor of abutting property owners if the ordinance for such improvement has been passed by the affirmative vote of four members of council. Such ordinance shall not be passed in a less period than twenty-eight days from the date of its intro-

duction; and, in the meantime, copies of such ordinance shall be published, in one or more newspapers, once a week for three weeks, in the manner required by section one hundred and nine of this act. The requirements for such publication shall not, however, preclude the amendment of any paving ordinance as to the kind of pavement with which any [highway,] street, [avenue, lane, or alley,] or part thereof, or sidewalk, is proposed to be paved.

Section 2936. [Passage of Ordinance and Publication of Names of Petitioners Conclusive of Number of Petitioners.—The passage of the ordinance providing for any of such improvements upon petition therefor, and the publication of the names of the petitioners in one newspaper or newspapers, published in said city, and, in case no paper is published in said city, then in one newspaper published in the county in which said city is located, by one insertion, at least five days before the passage of said ordinance, shall be conclusive that a majority in number or interest (as the case may be) have petitioned therefor.] *Appeal from Ordinance.*—*Any person affected may appeal from said ordinance in the manner and time and with the effect provided for in sections two thousand nine hundred twenty and twenty-one of this act.*

Section 29.1. Sections 2937 and 2938 of said article and act are hereby repealed.

Section 29.2. The subsequent section of subdivision (c) of said article and act is hereby renumbered 2937 and so renumbered is reenacted, revised and amended as follows:

Section [2939] 2937. Assessment of Damages and Benefits.—In any proceedings under this subdivision of this article where the cost and expense of the improvement is not assessed by the foot-front rule, viewers shall be appointed, damages awarded, and benefits assessed as provided in this act, for such proceedings.

Section 29.3. Section 2940 of said article and act is hereby repealed.

Section 29.4. The subsequent section of subdivision (c) of said article and act is hereby renumbered 2938 and so renumbered is reenacted, revised and amended to read as follows:

Section [2941] 2938. Preparation of Streets for Paving or Repairing.—Council may provide, by ordinance, for the laying, renewing, and repairing of all gas, water, steam, or other pipes, or conduits, in any street [or highway], before the paving, repaving, or repairing of the same, and for making the necessary house connections with said pipes, and also for the necessary house connections and branches with and leading into main or

Sections 2937 and 2938, said article and act, repealed.

Subsequent section of subdivision (c), said article and act, renumbered section 2937 and as such is reenacted, revised and amended.

Section 2940, said article and act, repealed.

Subsequent section of subdivision (c), said article and act, renumbered section 2938 and as such is reenacted, revised and amended.

*lateral sewers: Provided, That in no case, except as a sanitary measure, of which council shall be the judge, shall council require such house connections to be extended further from such sewers, or from such gas, water, steam, or other pipes, or conduits, than to the inner line of the curbstone of such street [or highway]. Council may, after notice to all companies, corporations, persons, and owners affected, and in default of compliance therewith, cause said pipes to be laid, renewed, or repaired, and said connections made, and **collect the cost of paving, and repairing all pipes and pipe connections, from the companies, corporations, or persons owning or operating the said gas, water, steam, and other pipes or conduits, with interest; and the cost of the sewer connections shall be a first lien against the land for whose benefit such connections are made. A separate lien may be filed therefor, or such sewer connection cost may be included in any lien filed for the cost of such street improvement, and the lien and the proceedings thereon shall be as in the case of other municipal liens.

Section 29.5. Said act is hereby further revised and amended by adding to article XXIX, subdivision (c) thereof, a new section numbered 2939, as follows:

Section 2939. Highways in Cities.—Wherever in this act a city is given powers, rights and duties as to its streets or sections thereof, the same shall extend as well to highways or sections thereof which are also streets of the city, to the extent that the city is legally responsible for them under this act or the State Highway Law. The use of the word "street" in this act shall to that extent include highways.

Section 29.6. Sections 2950 and 2951, subdivision (d), section 2955, subdivision (e), section 2960, subdivision (f), section 2963, subdivision (g), section 2965, subdivision (h), section 2970, subdivision (i), sections 2975 to 2979 inclusive, subdivision (j), sections 2985 to 2990 inclusive, subdivision (k), all of said article and act are hereby reenacted, revised, and amended to read as follows:

(d) Grade Crossings

Section 2950. Consent of Public [Service] *Utility* Commission.—Every city constructing a [highway] *street* across a railroad shall construct the same above or below the grade thereof, unless permitted by the Public [Service] *Utility* Commission to construct the same at grade.

Section 2951. Public [Service] *Utility* Commission; Jurisdiction; Damages.—Any such crossings of a rail-

Said act further revised and amended by adding to article XXIX, subdivision (c) thereof, a new section 2939.

Sections 2950 and 2951, subdivision (d), section 2955, subdivision (e), section 2960, subdivision (f), section 2963, subdivision (g), section 2965, subdivision (h), section 2970, subdivision (i), sections 2975 to 2979, inclusive, subdivision (j), sections 2985 to 2990, inclusive, subdivision (k), all of said article and act, reenacted, revised and amended.

* "lateral" in original.

** "collected" in original.

road by a [highway,] *street*, or any vacation of any [highway] *street* crossing a railroad, shall be constructed or *vacated* only in the manner prescribed by, and under the jurisdiction of, the Public [Service] *Utility* Commission. The compensation for damages to the owners of adjacent property taken, injured or destroyed shall be ascertained, fixed, and paid in the manner prescribed in the Public [Service Company] *Utility* Law.

(e) Acquisition of Unobstructed View Across Lands

Section 2955. Acquisition of Unobstructed Views.—Any city may acquire, by purchase or by the right of eminent domain, a free and unobstructed view down and across lands located at or near [the intersection of any two highways, or a highway and a railroad or railway, or at any curve in any highway,] *intersections of streets, railroads or railways, or curves of any of them*, as may be necessary, to assure a free and unobstructed view in all directions at such [crossings] *places*, and to [so] prevent the use of such lands for any purpose or in any manner which may interfere with or obstruct the vision of any person or persons traveling upon any such [highway] *street within the city*. Upon any such condemnation, the city having instituted the condemnation proceedings shall file with the recorder of deeds [of the proper county] a plan, showing the property condemned and such other detailed information [which] *as* may be deemed necessary [said plan to be recorded at the expense of the county] and, after the same is [recorded] *filed*, said city may, from time to time, abate or remove, or cause to be abated or removed, any obstruction to such view over and across such lands.

The proceedings for the condemnation of such view over and across such lands, and for the assessment of damages for property taken, injured or destroyed, shall be in the manner provided in this act for property taken, injured or destroyed.

Upon the condemnation of a view over and across any lands for the purposes aforesaid, the owner of such lands may make every such use thereof as will not interfere with a free and unobstructed view at such [dangerous crossing] *intersection* or curve. Unless specially provided for in such condemnation proceedings, such condemnation shall not be construed to prevent the owner thereof from using such land for pasture or the growing of grass, oats, wheat, or other crops which will not obstruct the vision more than wheat.

(f) Use of Abutting Lands

Section 2960. Use of Abutting Lands for Embankments, Slopes, Fills, and Culverts.—In the grading of

any street, [lane or alley,] or any part thereof, cities 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. 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 city] *in cities* and shall be assessed and paid as is provided by this act in such cases.

.(g) Abandoned Turnpikes

Section 2963. Maintenance and Improvement of Condemned and Abandoned Turnpikes.—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 city shall be maintained and improved in the same manner as other streets of the city.

(h) Unlawful Assessments

Section 2965. Repayment of Assessments Paid to City by Owners of Property Unlawfully Assessed.—[Whenever any city shall have, under existing laws, paved, curbed, and guttered, or otherwise improved its highways, or any of them, or has opened or graded or acquired or condemned property in or along its highways, or any of them, at the expense, in whole or in part, of the owners of property bounding and abutting thereon and such owners, or any number of them, shall have paid the assessments levied against them by such city, or by viewers, for such improvement into the city treasury, the said city is hereby authorized and empowered to refund to the said owners, or to their heirs or assigns, the amount of the assessment thus paid by them, if it shall have been determined, by any proceeding at law or in equity, by a court of competent jurisdiction that the owners of property bounding or abutting on said highway or highways were not liable for the payment of such improvement at the time such improvement was ordered by the council of said cities to be made.] *Any city receiving money in payment of an assessment levied under any provision of this article shall repay the same or so much thereof as shall be ordered to any parties bringing the action, within two*

years of such payment or payments, upon the final determination of a proper court in a proper issue that the assessment levied was not such as the owner of the property so assessed was liable to pay at the time council ordered the work to be done for which the assessment was made, or within the said period of two years, the city may repay such money voluntarily upon a showing that the same was paid inadvertently, or such assessment or part thereof was made erroneously.

(i) [Highways] *Streets or Roads* Connecting
City with [Improved Roads] *Highways*

Section 2970. Appropriation for Connections with [State] Highways.—Cities may, singly or jointly, with [counties and/or boroughs] *other political subdivisions*, appropriate and expend moneys for the improvement of [highways] *streets or roads* [outside of] *beyond* the limits of such cities, for the purpose of connecting improved streets in such cities with a [State] highway [or State-aid highway] whenever that part of the connecting [highway] *street or road* to be improved outside the city limits shall be less than one mile in length.

(j) Detours

Section 2975. [Highways] *Streets* not to be Closed to Vehicular Traffic; Exceptions.—No [highway,] street [or road] shall be closed to vehicular traffic, except upon order of the Department of Streets and Public Improvements, or, *by order of the mayor, the police or the fire marshal*, in cases of emergency, wherein the safety of the public would be endangered, nor shall any such [highway,] street [or road] be [so] closed for a longer period than is necessary for the purpose for which such order is issued.

Section 2976. Closing of [Highways] *Streets* Designated as Detours by State.—No [highway,] street [or road] shall be closed to vehicular traffic when the same has been designated as a detour by the [State] Department of Highways *of the Commonwealth*, unless the written consent of the [Department] *Secretary* of Highways has first been obtained, or unless council shall, by resolution duly recorded on its minutes, declare such closing necessary for the safety of the public.

Section 2977. Notice of Detour on Streets Forming Part of [State] Highway.—When any [highway,] street [or road] which forms a part or section of a [State] highway, is closed to vehicular traffic, the city shall at once notify the [State] Department of Highways *of the Commonwealth* of the creation of a detour, as herein-after provided. When such detour is removed, the Department of Highways shall also be notified at once of the removal.

Section 2978. Detours to be Provided when [Highways] *Streets* Closed.—When any [highway,] street [or road] shall be closed, as hereinbefore provided, it shall be the duty of the *city* authorities authorizing the closing to immediately designate or lay out a detour, on which they shall erect, or cause to be erected and maintained while such detour is in use, legible signs at each [public highway] intersection throughout its entire length, indicating the *proper* direction [to the main highway]. During the period when such detour is in use, it shall be the duty of [the] *such* authorities closing the [main highway] *street* to maintain such detour in safe and passable condition. It shall also be the duty of the authorities closing the [main highway] *street* and maintaining the detour to immediately remove all detour signs when the [highway] *street* originally closed is opened for traffic. [Said authorities shall, as soon as possible, repair the road designated as a detour, and place same in a condition at least equal to its condition when designated as a detour.] Whenever necessary in the creation of a detour, as aforesaid, the *city* authorities responsible for laying out the detour may enter into agreement with the owners of private lands, covering the acquisition of right of way privileges over private property for the period when the [main highway] *street* shall be closed to traffic. In case no agreement satisfactory to the parties can be reached, the authorities responsible for the laying out of the detour may proceed with the construction of the same, and either such authorities or the owner of the property occupied may petition the court for the appointment of viewers to ascertain the damages, if any, in the same manner as damages are now ascertained for the opening of [public roads] *streets* in such city. In the exercise of the rights conferred by this section, [the authorities responsible are] *council* is hereby empowered to pay for the necessary maintenance, subsequent repair, and land rental out of such funds as are available for the construction and [/or] maintenance of the [highways,] streets [and roads] in their charge.

Section 2979. Penalties.—Any person who shall wilfully remove, deface, destroy or disregard any barricade, light, danger sign, detour sign, *or signal*, or warning of any other character whatsoever so erected or placed, or who shall drive on, over or across any [highway] *street* which has been closed by proper authority, shall, upon conviction thereof in a summary proceeding before a magistrate, alderman, or justice of the peace, be sentenced to pay a fine of not less than twenty-five dollars nor more than one hundred dollars, and the costs of prosecution, and, in default of the payment thereof, shall be imprisoned one day for each dollar *up to ninety* of

fine and costs unpaid: Provided, however, That persons who have no outlet due to the closing of a [highway] *street* may drive on, over or across such [highway] *street*, with the consent in writing of, and subject to such conditions as may be prescribed by, the authorities responsible for the closing or their agents or contractors, without being subject to the penalties imposed by this section.

In addition to the penalties herein provided, the authorities responsible for the maintenance of a [highway] *street* which has been closed to vehicular traffic, or their agents or contractors, may, in an action at law, recover damages from any person or persons who have damaged a [highway by driving on, over or across the same] *street* when it is closed to vehicular traffic. All fines collected under the provisions of this section shall be paid by the officer receiving the same to the treasurer of the city.

(k) Boundary Streets [and Highways]

Section 2985. Maintenance of [Highways] *Streets* Forming Boundaries.—Whenever any [highway or] *street* is on the boundary line between any city and a township, such [highway or] *street* shall be maintained jointly by the city and the township. For the purpose of maintaining any such [highway or] *street*, the authorities of any [such] city are hereby directed to enter into agreements with the authorities of [such] *any* township providing the manner in which the same shall be maintained, and providing for the division of the cost of maintenance between the city and township. If any such city or township shall fail or refuse to enter into any such contract, [or if the city and township cannot agree,] any taxpayer *thereof* or the corporate authorities of the city or township may present a petition to the court of quarter sessions of the county, setting forth the facts. The court, after hearing, of which such notice shall be given to all parties interested as the court may direct, shall make an order directing the manner of such maintenance and the division of the cost of maintenance between the city and the township. [The action of the court shall be final.]

Section 2986. [Highways] *Streets*, the Center Line of Which Is the Boundary between Municipalities in the Same County.—Whenever the center line of any [highway] *street* constitutes the dividing line between any city and a township located in the same county, the city 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, providing for the grading, curbing, and macadamizing or paving, of the

[roadway of said highway] *street*; the cost of such improvement, to be borne one-half by the city, and one-half by the county and township, in equal portions.

The alteration or improvement shall be [construed] *constructed*, and subsequent repairs shall be made, under the supervision of the proper authorities of the city, in compliance with existing laws governing the construction of such alterations or improvements in said city, and in further compliance with plans and specifications to be agreed upon, in writing, between said city and the commissioners of the county and commissioners or road supervisors of the said township. The cost of repairs shall be borne one-half by the city, and one-half by the township, or by the county and township, in equal portions, or such other proportions as may be agreed upon by the county and township.

Section 2987. [Highways] *Street*, the Center Line of Which is the Boundary between Municipalities in Different Counties.—Whenever the center line of any [highway] *street* constitutes a dividing line between a city and a township located in an adjacent county, the city may enter into a contract with the commissioners of the county and the commissioners or township supervisors of such township, as the case may be, providing for the grading, curbing, macadamizing, or paving of the [roadway of said highway] *street*, the cost thereof to be borne one-half by the city, and one-half by the township and the county in which such township shall be situated, in equal portions.

Such alteration or improvement shall be constructed, and subsequent repairs shall be made, under the supervision of the proper authorities of the city, in compliance with the provisions of this act governing such construction or improvement by the city, and in further compliance with plans and specifications to be agreed upon in writing between such city and the commissioners of the county and the commissioners or township supervisors of the township. The cost of repairs shall be borne one-half by the city, and one-half by the township or by the county and township in equal portions or such other proportion as may be agreed upon by the county and township.

In all cases in which it shall be found impossible to enter into such contract or agreement, [or where either the city or the township or the county in which such township is situated shall refuse to enter into such contract or agreement,] either the city or the county or township or any taxpayer thereof may present [its] a petition to the court of common pleas of either county, setting forth the facts and circumstances, including the condition of the [highway] *street* from which the

necessity or desirability for the grading, curbing, macadamizing, or paving [of the roadway] appears, and the estimated cost thereof, and that the *said city or county or the township have failed to agree upon* terms of the said contract [cannot be agreed upon by the said city and the county or township, or either or any of them, or that either such city or the county or township, or any or either of them, refuses to enter into such contract]. Such [petition may pray that such] court may, after hearing all the parties concerned, make its order or decree, defining the nature and character of the improvement *reasonably necessary or desirable to be made to the [roadway] *street*, and requiring the parties hereinabove specified to enter into a contract or contracts for the making and constructing of the same as herein provided for.

A copy of the said petition, duly certified, shall be served upon the city, [or] the county and *the township* concerned, other than the petitioner, with notice of such day as may be fixed by the court for the hearing. Thereupon, [either] *any* or [both] *all* of the parties served with such notice shall be entitled, on or before such date, to file in the said court its answers to the said petition, setting forth its version of the facts or such other matters in relation thereto as may be deemed necessary or proper by it. The court, upon the date so fixed or at such other time as it may appoint, shall hear the evidence of the parties, or it may refer the matter to a master, who shall hear the testimony of the parties and report his findings, in the same manner and under the same procedure as provided by the rules in equity in similar cases.

The court may reject, confirm, or modify the report of the master and may make its decree or order directing the making of such alterations or improvements to the [roadway] *street* as may be deemed reasonably necessary or desirable and providing for the sharing of the cost of such improvements, one-half by the city, and one-half by the county and township in equal portions. The said order or decree may further provide that the repairs to such alterations and improvements subsequently required shall be borne one-half by the city, and one-half by the county or township in equal portions, or such other proportions as between the county and the **township as such court may find to be legal and proper. Thereupon the said grading, curbing, macadamizing, or paving of the [roadway of such highway] *street* shall proceed in accordance with the decree or order of the said court in the same manner as if the contract or

* "reasonable" in original.

** "townships" in original.

agreement provided for in this section *had been entered into and duly executed.

Section 2988. [Highways] *Streets More Than Half of Whose Width is Within City*.—Whenever any [highway,] street [or alley], more than one-half the width of which is within the limits of any city shall divide the said city from any other municipality or township located within the same county, such [highway,] street [or alley] may be improved by the city in the same manner as if the said [highway,] street [or alley] were entirely located within the limits of said city.

The property abutting on the side of said [highway,] street [or alley] which is located outside the limits of the city making such improvements shall, for a depth of one hundred and fifty feet plus one-half the width of said [highway,] street [or alley], *the total measured* from its center line, be assessed for any and all municipal improvements to or on the said [highway,] street [or alley] in the same manner as such property would be assessed under the provisions of this act if it were entirely located within the limits of such city.

Section 2989. *Assessment on Property Outside Limits Where [Highway] Street Entirely Within City*.—Whenever any [highway,] street [or alley], entirely within the limits of any city, shall divide the said city from any other municipality or township located in the same county, the property on the side of said [highway,] street [or alley], opposite the present line of said city, shall, for a depth of one hundred and fifty feet from said line, be assessed for any and all municipal improvements to or on the [highways,] streets [or alleys] on which the said property shall abut, in the manner provided by this act for such proceedings, as if the said property were entirely located within the limits of said city.

Section 2990. [Highway] *Street the Center Line of Which is the Dividing Line Between a City and Borough or Township of the First Class [, Paving of]; Assessments*.—Whenever the center line of any [highway] *street* constitutes the dividing line between a city and a borough, or a city and a township of the first class, located in the same county, the council of such city may, where such improvement is through built up property or properties duly plotted and laid out in lots for building purposes, and where two-thirds of the combined frontage of the two sides petition for the improvement, enter into a contract with the borough or township providing for the grading, curbing, draining, paving and macadamizing of such [highway] *street*. Such alterations and improvements shall be made under the supervision of the proper authorities of such city,

* "has" in original.

borough, or township, or by contract let by such city, borough, or township, as may be provided for in the contract between the city and *borough or township*.

No ordinance or ordinances authorizing any such improvement, where the whole or any part of the cost of the improvement is to be assessed against abutting property, shall be finally adopted until the expiration of thirty days from the date of its introduction, and, in the meantime, copies thereof shall be published, once a week for two weeks, in one newspaper circulating in such city, borough, and township immediately following the introduction thereof, and at least five copies thereof shall be posted along the line of the proposed improvement.

The whole cost of such alterations and improvements, or any part thereof, as may be agreed upon in the contract between the city, borough, and township, may be collected from the owners of property within the city, borough, and within the township, abutting along the line of the improvement, by an equal assessment on the foot front. Any portion of such cost not assessed against abutting property shall be paid one-half by each of the municipal divisions joining in the improvement.

Thirty days' notice of assessments of the whole cost or part of the cost of any such improvement shall be given to each party assessed, either by service on the owner or his agent, or posted on the premises by the clerk or secretary of the city, borough, or township making the improvement. If any assessment made by the city shall remain unpaid at the expiration of the notice, it shall be the duty of the city solicitor to collect the same, with interest from the time of the 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 shall be embraced in one claim.

Section 30. Sections 3001 to 3004 inclusive of article XXX of said act are hereby reenacted, revised and amended as follows:

Sections 3001 to 3004, inclusive, of article XXX, said act, re-enacted, revised and amended.

Article XXX

SIDEWALKS

Section 3001. Power to *Lay Out and Grade Sidewalks*; Compel Construction of Sidewalks.--[Cities] *Any city may lay out, ordain and establish sidewalks, curbs, gutters and drains along any street, and may, with or without petition, require owners of property abutting on any [public highway,] street [, lane or alley] to construct, pave, curb, repave and recurb the*

sidewalks, and keep the same in good repair along such property, [with such materials,] at such grades, and under such regulations and specifications as [may be prescribed by ordinance] *council may provide.*

Section 3002. Construction by Cities Upon Failure of Owner So to Do; Collection of Cost.—Upon failure of [such owners] *any owner* to construct, pave, curb, repave, [or] recurb [such] or *maintain any* sidewalk after notice so to do, the same may be done or *caused to be done* by the city, and the [expense] *cost* thereof be levied and collected from such [owners, with costs,] *owner, together with a penalty of ten per centum of such costs and all charges and expenses,* which amount shall be a lien upon such premises from the time of the completion of the work, which date shall be fixed by [certificates] *certificate* of the city engineer, filed with the clerk, and may be collected by action [at law] **in assumpsit,* or such lien may be filed and proceeded in as provided by law in the case of municipal liens, or the cost may be borne by the city in whole or in part; if in part, the rest to be collected from the [owners in manner] *owner* as [above] provided *herein.* *The notice required herein shall be served upon the owner if that can be done within the county; when it cannot be done so, then the notice may be served upon the owner's agent or the party in possession; and if this cannot be done, then the notice may be served by posting conspicuously upon the premises. Council may, by ordinance, establish the period of such notice after service after which the owner shall be deemed to have failed to comply therewith. Such period shall not be less than ten days.*

Section 3003. Emergency Repairs; Notice.—[Cities] *Any city* may make emergency repairs to sidewalks, within corporate limits, when, in the opinion of the officer or head of the department 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, upon failure of the owner of the property to make such repair within forty-eight hours after the service of notice upon such owner so to do. [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 no agent or party in possession, the notice may be served by posting upon the most public part of the said premises.] *The notice shall be served as provided in this article for constructing and maintaining sidewalks and curbs. It shall expressly state that emergency repairs are required.*

* "is" in original.

This section is intended to provide an additional remedy for cities in connection with emergency repairs where the actual cost of doing the work does not exceed [twenty-five] *fifty* dollars. The certificate of the officer or head of the department in charge of repairs to sidewalks shall be conclusive evidence of the existence of the emergency justifying such repair.

Section 3004. Cost of Emergency Repairs to be a Lien.—Upon the completion of any emergency repairs, 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 from the owner by an action in assumpsit.*

Sections 3101 to 3103, inclusive, subdivision (a) of article XXXI, said act, reenacted, revised and amended.

Section 31. Sections 3101 to 3103 inclusive, subdivision (a) of article XXXI of said act, are hereby reenacted, revised and amended to read as follows:

Article XXXI

BRIDGES AND VIADUCTS

(a) Construction *and* Maintenance

Section 3101. Construction *and* Maintenance of Bridges and Viaducts.—Cities may locate, build and maintain bridges or viaducts and the piers, [and] abutments *and approaches* therefor, to be used as public [highways] *streets*, over rivers, creeks, streams, railroads and private property, or over and across any of them, whether the said viaducts or bridges be wholly within, or partly without and partly within, the city limits [, for the purpose of uniting two or more different streets or highways, or separate parts of the same highway or extension thereof].

Section 3102. Ordinance for Location of Bridges; Procedure.—Cities may enact ordinances *fixing the location and* providing for the laying-out and opening of the routes or locations for said bridges and viaducts, which shall be public [highways] *streets*; and the proceedings for the [said] laying-out and [fixing the locations, and for the] opening thereof, shall be the same as is provided by this act for the laying-out and opening of streets [, except that no petition of property owners shall be required therefor].

Section 3103. Right to Appropriate Property; Assessment of Damages.—In case the city has not agreed with the owner or owners for the damages done, or likely to be done, by the erection of said bridge or viaduct, the city may take and appropriate the lands and property necessary, over and across which to erect

said bridge or viaduct, and the damages and benefits caused by such taking and appropriation shall be assessed in the same manner and with like proceedings as provided by this act for property taken, injured or destroyed.

Section 31.1. Sections 3104, 3105, 3107, 3106, 3109 and 3110, in that order, are hereby respectively renumbered 3110 to 3115 inclusive and are constituted a new subdivision of said article and act, subdivision (b), and so renumbered are reenacted, revised and amended as follows:

Sections 3104, 3105, 3107, 3106, 3109 and 3110, in that order, respectively renumbered 3110 to 3115, inclusive, and are constituted a new subdivision (b) of said article and act and as such are reenacted, revised and amended.

(b) *Joint Construction and Maintenance*

Section [3104] 3110. [Unite with County or Other Corporation in] Contract for Joint Construction and Maintenance.—The city may [enter into and unite in a] contract [or in contracts with the county commissioners of the proper county, where said bridge or viaduct will cross a river, creek or stream, or other place, over which the county is authorized by law to build bridges; and also with railroad, street railway, and other companies and parties interested,] *with any political subdivision or other public agency whatsoever or public utility or any other person interested and by law authorized thereto*, or with any or all of them, for the [building, constructing,] *laying out, construction, improvement* and maintenance of [said] *any* bridge or viaduct, or for certain parts [or portions] thereof, and for the payment of any damages caused [by the location and the said erection] *thereby*.

Section [3105] 3111. Stipulations of Joint Contract; Maintenance.—The contracts provided for in the [next] preceding section may stipulate that the city shall pay a certain part [or portion] of the whole contract price or cost of the work, including damages; or may stipulate that the city shall construct, or pay for the construction of, a certain part [or portion] of the work, and may otherwise provide for the payment of the damages. When any railroad company, street railway [or other company], or other [parties] *persons* interested, agrees to pay a certain part [or portion] of the cost of the entire work, [they] *it* shall pay such part [or portion] into the proper city treasury. Upon said payment, the city treasurer shall be liable therefor, and he shall pay the same over to the contractor, as may be provided in the contract. The said agreements may also provide for the maintenance of the said bridges and viaducts after their erection.

Section [3107] 3112. Plans; Bids; Awarding of Contract.—After any [such] *joint* contract has been entered into, the city in conjunction with the [county com-

missioners] *other parties thereto* may have prepared plans or specifications of the entire work, and thereafter advertise for bids, and award the contract to the lowest responsible bidder. [The contract for the said work shall provide that the county shall pay for its certain part of said pridge or viaduct, and the city shall contract for the other part of the said work, but the said contract, as to the city's part thereof, shall be based upon the appropriation made by the city 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. The contractor shall have a right of action against the city for the part thereof which the city agrees to pay, and also for any moneys paid into the city treasury on account of such bridge or viaduct.] *The city shall be liable to the contractor for only such part of the contract price as it has agreed to pay by the joint contract, but it shall, in addition, be liable to the contractor for any moneys actually paid into the city treasury by the other parties to the joint agreement.*

Section 3108,
said article and
act, repealed.

Section 31.2. Section 3108 of said article and act is hereby repealed.

Section [3106] 3113. Subsequent Contract With Railroad Which has not Contributed toward Cost.—No railroad, which has not contributed to the payment of the cost of construction of said viaduct or bridge, shall be permitted to run its line or lines of tracks under said bridge or viaduct, unless it shall enter into a contract with the city to thereafter pay a reasonable amount, part or portion toward the keeping-up and maintaining of the said structure, which amount shall be at the same rate, on the same basis, as is paid by the other railroad companies.

Section [3109] 3114. Recording of Contract.—Any of the contracts hereinabove provided for may be recorded in the [recorder's] office of the *recorder of deeds* in the proper county [, in which the city is situate]. Such record shall be notice to all persons who might be affected thereby.

Section [3110] 3115. Power to Construct Boundary Bridges.—Whenever a creek, over which a bridge may be necessary, shall be on the division line of a city and municipality or township, the city shall unite with such municipality or township in the construction and maintenance of a bridge, and pay an equal share of the expenses incident thereto.

Subdivisions (b)
and (c), said
article and act,
designated
subdivisions (c)
and (d) respec-
tively, and sec-
tions 3120 and
3121, and 3130
to 3134, inclu-
sive, of said
subdivisions, are
re-enacted.

Section 31.3. Subdivisions (b) and (c) of said article and act are hereby designated subdivisions (c) and (d) respectively, and sections 3120 and 3121, and 3130 to 3134 inclusive of the said subdivisions, are hereby re-enacted.

[(b)] (c) Acquisition of Existing Bridges

Section 3120. Power to Acquire Existing Bridge.—Any city which is divided or separated in any of its territorial sections or parts by intervening rivers or streams of water may purchase, enter upon, take, use, hold and appropriate such bridge or bridges, together with the approaches and appurtenances thereto, lying within its corporate limits as shall have been erected and are now in use over such rivers or streams of water so dividing and separating the sections or parts aforesaid.

Sections 3121. Assessment of Damages.—In case the compensation to be paid for such bridge cannot be agreed upon, the amount of damages due the owner or owners thereof for the taking, use and appropriation thereof shall be assessed in the manner provided in this act in the case of property taken, injured or destroyed.

[(c)] (d) Acquisition of Toll-Bridges

Section 3130. Power to Acquire Toll-Bridges.—Any city may purchase, condemn, maintain, and use any public toll-bridge crossing any river or stream within the limits of such municipality, together with the approaches and appurtenances thereto; and may enter into contracts, as hereinafter provided, with the county commissioners of the proper county, whereby said county shall pay a portion of the cost thereof.

Section 3131. Assessment of Damages for Taking.—In case the compensation to be paid for such bridge cannot be agreed upon, the amount of damages due the owner or owners thereof for the taking, use and appropriation thereof shall be assessed in the manner provided in this act in the case of property taken, injured or destroyed.

Section 3132. Damages and Costs in Case of Discontinuance of Proceedings.—In case any city shall discontinue any proceeding taken, providing for the appropriation or condemnation of any bridge prior to the entry upon, taking, or appropriation thereof, and before judgment therein, the city shall not thereafter be liable to pay any damages which have been or might have been allowed; but all costs upon any proceedings had thereon shall be paid by it, together with any actual damage, loss, or injury sustained by reason of such proceedings; and such damage, loss, or injury shall be determined and fixed by the court in which the proceedings are pending.

Section 3133. Contract with County for Purchase.—The city may enter into and unite in a contract with the county commissioners of the county in which said bridge is located upon such terms and conditions as may be

agreed upon for the purchase, appropriation, or condemnation of said bridge. The contract may stipulate that the city and county shall pay a certain part or portion of the whole purchase price or damages allowed by condemnation proceedings. The amounts to be paid by the county shall be paid into the city treasury, and, upon said payment, the city treasurer shall be liable therefor, and it shall be held and applied solely for the said purpose or purposes. The said contracts may also provide for and include provisions for the maintenance, repair, and rebuilding of the said bridge, after its purchase or condemnation by the said city.

Section 3134. To Become a Public Bridge; Rentals for Other than Foot and Vehicle Travel.—Whenever any toll-bridge shall be so purchased or condemned, the city shall control, maintain, and use the said bridge as a public bridge, but may charge tolls or rentals for the use thereof, from railway, telephone, and telegraph companies, and other persons making a use thereof for other than ordinary public foot and vehicle travel. Where contracts existed between such companies and persons and the owners of the bridge at the time of such purchase or condemnation, such contracts shall be preserved for the benefit of the city and shall be assigned thereto.

Sections 3201 to 3214, inclusive, subdivision (a), and sections 3220 to 3222, inclusive, subdivision (b), and sections 3230 and 3231, subdivision (c), and sections 3240 to 3245, inclusive, subdivision (d), all of article XXXII, said act, reenacted, revised and amended.

Section 32. Sections 3201 to 3214 inclusive, subdivision (a), and sections 3220 to 3222 inclusive, subdivision (b), and sections 3230 and 3231, subdivision (c), and sections 3240 to 3245 inclusive, subdivision (d), all of article XXXII of said act, are hereby reenacted, revised and amended to read as follows:

Article XXXII

SEWERS

(a) Construction

Section 3201. Construction of Sewers; Cost.—Any city may [, without petition therefor,] construct and reconstruct, or cause to be constructed, sewers of all kinds, including house connections to the curb, in its [public highways,] streets, [lanes and alleys,] and over and across public and private lands or property, and pay the cost and expense thereof out of the general revenues or special funds raised for said purpose, or assess the same, in whole or in part, upon abutting property, as hereinafter provided.

For such purposes, the city shall have [power to exercise] the right of eminent domain. The damages for property taken, injured or destroyed shall be ascertained and paid as provided in this act for such proceedings.

Section 3202. Fee for Tapping Where Sewer is Paid For by City.—Where the cost of constructing any sewer is paid for wholly *or partially* from city funds, the city may charge a reasonable fee for tapping or connecting with said sewer.

Section 3203. Assessment of Cost of Local Part of Main Sewers.—In the case of the construction of main sewers, or of any sewer which can be used in part for main sewerage purposes, and in [all cases where said sewer will also serve] *part* as a local sewer, the city may provide for assessing the abutting property with the local sewerage part thereof, according to the foot-front, or the assessed valuation of the said property for city purposes, or according to benefits.

Section 3204. Costs of Main Sewers.—The cost of all main sewers, or of any sewers used in part for main sewerage purposes, over and above the amount *thereof* assessed for local sewerage [as above provided], shall be paid for from the city funds [as aforesaid].

Section 3205. Assessment of Cost of Local Sewers.—Council may also provide that the cost and expenses of local, lateral, branch, including house connections to the curbs, and other sewers may be assessed against the abutting property according to the foot-front, or according to the assessed valuation thereof for city purposes, or according to benefits.

Section 3206. Construction of Sewerage System and Sewage Treatment Works; Assessment of Cost.—Any city may construct, or cause to be constructed, a sewerage system of sewers in streets, [lanes, alleys and highways,] with extensions thereof, [and sewage treatment works,] and with lateral and branch sewers therefrom *to and* in other [highways,] streets, [lanes and alleys,] and in public or private lands, at the same time as part of the same improvement and under the same contract, and the cost and expense thereof may be assessed as [is herein] provided *in this article*. *Any city may construct or cause to be constructed sewage treatment works, and the same may likewise be a part of the same improvement and under the same contract.*

Sewage treatment works may be erected within or without the limits of the city [, which]. *The city* shall have authority to acquire, *by eminent domain or otherwise*, property within or without the limits of the city deemed necessary for such treatment works and the sewers leading thereto.

Section 3207. Reductions in Assessments for *Corner or Irregular Shaped Lots*.—Where council determines to construct local, lateral, and other sewers, and to assess the cost and expenses thereof according to the foot-front

rule, they shall provide for a reduction of [one-half, or other] *an* equitable part [or portion] from the frontage of the longest side of all corner lots, and at other places, where, from the peculiar or pointed shape of the lots, an assessment for the full frontage would be inequitable. If the owner of the abutting property is not satisfied with the allowance or reduction, or refuses to accept the same, he shall have the right to [have three viewers appointed by] *appeal to* the court of common pleas; and the proceedings shall be *as* provided in this act for the assessment of damages and benefits by viewers *or by such other lawful procedure as the court may determine.*

Section 3208. Assessment of Cost by Viewers Appointed by Council.—Where the council determines to construct main, local, lateral, or branch sewers, and to assess the cost and expense thereof according to benefits, in addition to the remedies which now or may hereafter exist for the assessment of the said cost and expense by viewers appointed by court, [the said] council may appoint three disinterested freeholders as viewers, who, or a majority of whom, shall assess the *costs and expenses of said sewers upon the lands bounding or abutting thereon in proportion, as nearly as may be, to the benefits which may result to each lot or parcel of land. Said viewers, or a majority thereof, shall report their assessment to the council, in the manner hereinafter set forth, and [said] council shall act thereon as hereinafter provided.

Section 3209. Report of Council's Viewers; Notice; Objections; Hearing.—Said viewers, or a majority of them, shall make report in writing, specifying the amount assessed by them upon each lot or parcel of land for main or local sewerage separately, and file the same with the city clerk within such time as the council shall direct. After the report is filed, council shall cause not less than ten days' public notice to be given, by publication once in two newspapers of the city, as required by section one hundred and nine of this act, of the object of such assessments, and that the same will come for confirmation at a time to be specified in said notice. Objections to the assessment shall be in writing and be filed with the city clerk, and may be heard before the city council at the time specified in the notice. Council may, after hearing objections, modify, set aside, or confirm said assessments. If council sets aside the first or any other assessment, they may appoint other viewers, of the same qualifications as hereinbefore provided, and cause new assessments to be made, and the proceedings shall be the same as [herein directed in case of] *provided for* the first assessment.

* "cost" in original.

Section 3210. Certification of Assessments for Collection; Liens.—After making assessments for sewers, council may direct that they be certified to the city treasurer, or to such party as said assessments may be assigned to for collection. If such assessments are not paid within such time as council may by ordinance prescribe, it shall be lawful to file liens therefor in the prothonotary's office of the proper county, as provided by law. Said liens shall bear interest from the time the assessments were payable, at the rate of six per centum, per annum, until paid.

Section 3211. Rental Charge for Use of Sewers.—[Whenever any city has constructed any sewer, or sewer system, or sewage treatment works, either wholly or partially at public expense, or has acquired the same at public expense, such city] *Cities* may provide by ordinance for *the imposition and* the collection of an annual rental, [or] *rate or charge* for the use of [such sewer, sewer system,] *sewers, sewer systems,* or sewage treatment works [from the owners of the property served by it] *as authorized by law.*

Section 3212. Limitation of Amount of Sewer Rental Charge.—Such annual rental, *rate or charge* shall not exceed the amount [expended annually by the city in the operation, maintenance, repair, alteration, inspection, depreciation, or other expenses in relation to such sewer, sewer system, or sewage treatment works, and may include any interest on money expended by the city in the construction or acquisition of such sewer, sewer system, or sewage treatment works. The said annual sum shall be apportioned equitably among the several properties served by the said sewer, sewer system, or sewage treatment works,] *authorized by law.*

Section 3213. Warrants for Collection of Sewer Rentals.—Council shall [execute a warrant or warrants authorizing] *provide for* the collection of such annual [sewer] rentals, *rates* or charges [to the officer employed by council to collect the same].

Section 3214. Collection of Sewer Rentals.—Such annual sewer rentals or charges shall be a lien on the properties charged with the payment thereof from the date set in the ordinance, and, if not paid after thirty days' notice, may be collected by an action in assumpsit in the name of the city 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.

(b) Acquisition of Existing Sewers

Section 3220. Purchase of Existing Sewers.—Any city, in which any corporation created and existing under and by virtue of the laws of this Commonwealth,

or any person or persons or unincorporated associations, have constructed and are maintaining or may hereafter construct and maintain sewers, culverts, conduits, and pipes, with the necessary inlets and appliances, for surface, under-surface and sewage drainage, may become the [owners] *owner* of such sewers, culverts, conduits, and pipes, with the necessary inlets and appliances, for surface, under-surface, and sewage drainage, and the property of such company, person or persons, or unincorporated associations, by paying therefor the actual value of the same at the time of taking by the city.

Section 3221. Ascertainment of Price in Case of Disagreement.—In case of disagreement as to the amount to be paid, the same shall be ascertained in the manner provided by this act in case of property taken, injured or destroyed.

Section 3222. Appointment of Viewers.—Whenever the amount to be paid by any city to any corporation, person or persons, or unincorporated association, for the acquisition of such sewers, culverts, conduits, and pipes, with the necessary inlets and appliances, shall have been ascertained in the manner provided in the preceding section, the court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by petition by said city or any person interested, shall appoint viewers who shall assess the costs and expenses of the sewers, culverts, conduits, and pipes, with the necessary inlets and appliances, acquired by said city, 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 city; and the proceedings of said viewers, and the proceedings on their report, shall be as provided in this act for the assessment of damages and benefits.

(c) Construction of Sewers Outside Cartway and Curb Lines

Section 3230. Power to Construct.—Cities may require and permit sanitary sewers and sewer pipes to be laid and constructed outside the cartway and 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 3231. 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 *same* way and manner as the costs and expenses of other sewers are assessed and collected in the respective city in which the same are laid.

(d) Joint Sewers

Section 3240. Building Joint Sewers.—(a) Cities may jointly with other municipalities 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 cities by sections three thousand two hundred and eight, three thousand two hundred and nine, and three thousand two hundred and ten of this act or by the foot-front rule or assessed valuation [of], as provided in section three thousand two hundred and three of this act. Any portion of the cost of such an improvement not assessed or not assessable shall be paid by the respective cities, boroughs, and townships joining as may be agreed upon.

(b) The cities, boroughs, and townships joining or contemplating joining in any such improvement, in order to facilitate [the building of the same and] *the securing of preliminary surveys and estimates and the building of such improvement*, may by ordinance or resolution provide for the appointment of a joint sewer board composed of one representative from each of the cities, boroughs, and townships joining which shall act generally as the advisory and administrative agency *in securing such surveys and estimates and* 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 chairman, vice-chairman, secretary, and treasurer. The several cities, boroughs, 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 city, borough, 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 cities, boroughs, and townships as hereinafter provided, and the budget item providing for the

compensation to members for attending meetings shall not exceed a total of two hundred and fifty dollars [(\$250)] per year, and no member shall be paid unless he actually attends, and the fee for each such attendance shall be stipulated, and the members, in addition thereto, shall be entitled to actual expenses to be paid by the respective cities, boroughs, 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 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 cities, boroughs, and townships defining the advisory and administrative powers of the board; setting forth the consents of the several cities, boroughs, 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 cities, boroughs, 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] of any kind 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 city, borough, or township where such property is located. In any case where it shall be necessary to acquire, injure, or destroy property of any kind in any territory not within the limits of any of the cities, boroughs, or townships joining in the improvement; then the right of eminent domain shall be vested in any city, borough, 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 cities, boroughs, and townships exercising the right of eminent domain; and shall be paid by the several cities, boroughs, and townships joining in the same proportion as other costs of the improvement.

(e) Each of the cities 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 costs of such improvement in the manner [now] provided by law for the incurring of indebtedness.

Section 3241. Approval of Sanitary Water Board.—No such sewer or 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.

Section 3242. Connections with Sewers of Adjacent Municipalities.—Any city may connect with an existing sewer, owned by any adjacent municipality, for sewage purposes, in the manner prescribed in the following sections of this subdivision of this article.

Section 3243. Applications to Court.—Whenever any city desires to connect with the existing sewer of any adjacent municipality, and no agreement has been reached between such city and the adjacent municipality, *an application shall be made by council to the court of quarter sessions of the county, setting forth that fact.

Section 3244. 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 city, and shall fix the proportion of the expense for repairs which each municipality shall thereafter bear, and determine all other questions liable to arise in connection therewith.

Section 3245. 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.

Section 32.1. Subdivision (d-1) and section 3248 of said article and act are hereby designated subdivision (e), section 3250 of said article and act and as such are reenacted.

Subdivision (d-1) and section 3248, said article and act, designated subdivision (e), section 3250, said article and act, and as such are reenacted.

* "and" in original.

[(d-1)] (e) Power to Furnish Sewerage Facilities
Outside of City

Section [3248] 3250. Sewers Extended Outside of City.—All cities, wherein the title to the sewerage system therein located, is, or shall hereafter be in the name of the city, may extend such system and construct sewers beyond the bounds of the cities wherein they are located into the county and municipalities of the county in the vicinity of such cities, and furnish sewer facilities to, and permit the tapping and the connection therewith by any and all corporations, institutions, persons and municipalities in the counties in which said cities are located in accordance with law and the rules and regulations of the Public Utility Commission. This section does not authorize a city to extend a sewerage system or construct sewers in territory outside the boundaries of such cities in which sewerage facilities are furnished by a private company or by a municipality authority.

Subdivision (e) and section 3250, said article and act, designated subdivision (f), section 3260, said article and act, and as such are reenacted.

Section 32.2. Subdivision (e) and section 3250 of said article and act are hereby designated subdivision (f), section 3260 of said article and act and as such are reenacted.

[(e)] (f) Non-debt Revenue Sewer Bonds

Section [3250] 3260. 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 city 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 city, 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 city 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

* "agaist" in original.

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 city to create indebtedness in accordance with existing laws.

Section 33. Sections 3301 and 3302, subdivision (a), and section 3310, subdivision (b), of article XXXIII of said act, are reenacted, revised and amended to read as follows:

Sections 3301 and 3302, subdivision (a), and section 3310, subdivision (b), of article XXXIII, said act, reenacted, revised and amended.

Article XXXIII

COLLECTION BY INSTALMENT OF THE COST OF [HIGHWAY] STREET AND SEWER IMPROVEMENTS

(a) [Highway] *Street* and Sewer Improvements

Section 3301. Payment of Assessments in Instalments.—Whenever any ordinance is passed providing for the grading, paving or [macadamizing or] other improvement of any [highway,] street, [lane or alley,] or part thereof, or for the construction of any sewer, the expense whereof is to be defrayed by local assessments [as hereinbefore provided], it may be prescribed in such ordinance that the assessments may be paid in not more than ten equal instalments, payable at such times as may be fixed by ordinance, the last thereof not to be more than ten years after the completion of the work on the improvement for which it is assessed. The instalments shall bear interest at the rate of not more than six per centum per annum, commencing at such time* as may be fixed by ordinance. If any of said instalments shall remain unpaid for two months after the same shall become due and payable, the whole of the assessment remaining unpaid shall be due and payable. Any person upon whom such assessment has been made may pay all or as many as he chooses of such instalments before the same are due.

Section 3302. Collection of Assessments.—All assessments made in pursuance hereof shall be collected in the same manner and with the same penalties as provided by law for the collection of municipal claims.

(b) [Highway] *Street* Improvements

Section 3310. Issue of Bonds for Payment of Cost of Improvement.—In order to provide for the payment of the cost and expense of the permanent paving and

* "times" in original.

improvement of any street, [highway, lane or alley,] or part thereof, cities may in addition to other methods provided, from time to time, issue their bonds in such sums as may be required, in all to an amount not exceeding the cost and expense of such improvement and interest thereon.

Said bonds shall bear the name of the [highway,] street [, lane or alley] to be improved. They shall [be payable at a period not less than five years from the date of their issue, to be provided in the ordinance directing the improvement, and] bear interest at a rate not exceeding six per centum per annum, payable semi-annually, on the first day of July and January, *and their maturity shall be fixed in accordance with the Municipal Borrowing Law.*

Sections 3312 to 3316, inclusive, said article and act, respectively renumbered 3311 to 3315, inclusive, and as such are re-enacted.

Section 33.1. Sections 3312 to 3316 inclusive of said article and act are respectively renumbered 3311 to 3315 inclusive and so renumbered are hereby reenacted.

Section [3312] 3311. Disposition of Proceeds of Sale of Bonds; Assessment on Properties.—Said bonds shall be negotiated at not less than par as other bonds of said cities are negotiated, and the proceeds thereof applied solely to the payment of the cost of said improvement. The contract price of the same, and interest thereon to the first day, when interest thereon is payable, shall be taken as the cost of said improvement, to be assessed on the property benefited, according to the provisions of this act.

Section [3313] 3312. Entering of Assessments as Liens.—Such assessments shall be entered in the proper municipal lien and judgment docket in the prothonotary's office, and shall, if filed within six months from the completion of the improvements, without the issuing of a scire facias to revive, remain a first lien upon the property assessed until fully paid, having precedence of all other liens, except taxes, and shall not be diverted by any judicial sale, unless the payment of the same is provided for from the proceeds of such sale.

The assessment shall state the name of the city claimant, the name of the owner or reputed owner, a reasonable description of the property, the amount claimed to be due, for what improvement the claim is made, and the time when the assessment was finally confirmed or made.

Section [3314] 3313. Instalment Payment of Assessments.—Such assessment shall be payable at the city treasurer's office in equal semi annual instalments, 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 city treasurer shall be applied to the sinking fund.

Section [3315] 3314. Collection of Unpaid Instalments.—In case of default in the payment of any semi-annual instalment of said assessment and interest for a period of sixty days after the same shall become due and payable, the entire assessment and accrued interest shall become due and payable, and the city solicitor shall proceed to collect the same under the provisions of laws creating and regulating municipal liens and proceedings thereon.

Section [3316] 3315. Payment in Advance; Discharge of Lien as Part of Property.—Any owner of property against whom an assessment shall have been made for such improvement shall have the right to pay the same, or any part remaining unpaid, in full with interest thereon to the next semiannual payment due on said assessment, and 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 34. Sections 3401 to 3409 inclusive of article XXXIV of said act are hereby reenacted, revised and amended to read as follows:

Sections 3401 to 3409, inclusive, of article XXXIV, said act, reenacted, revised and amended.

Article XXXIV

WATER-COURSES

Section 3401. Changing of Water-Courses; Removing *Obstructions Therefrom.—Cities may, by ordinance, after the consent of the Water and Power Resources Board *and of the Federal government, where required*, has first been obtained, establish the lines, change and vacate the channels, beds, and mouths of water-courses [, other than navigable streams,] through lands, marshes or waters in or adjacent to the city; crib, wall, confine, pave or completely inclose, and prevent and remove obstructions therefrom at the expense of those causing the same; and, for such purposes, may enter upon and condemn such property and materials as may be necessary. *Cities may construct and maintain dams as hereinafter provided.* Cities may also, by ordinance, establish the lines of banks of streams of water which pass through or along the boundary of such cities, and by proceedings at law or equity prevent and remove all such encroachments on the banks of streams and water-courses as threaten to or do injure the city or the property therein.

* "Obstruction" in original.

Section 3402. Notice.—No ordinance for the establishment of lines or 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 [published in the city] *in accordance with the provisions of section one hundred nine of this act.*

Section 3403. Viewers to Assess Damages.—The city may, at any time after the passage of the ordinance, present a petition to the court of common pleas, setting forth the lines established and 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, for so much thereof as the viewers may deem reasonable, upon the property benefited.

Section 3404. 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 3405. 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 this act for the assessment of damages and benefits in eminent domain proceedings.

Section 3406. Discontinuance of Proceedings.—If any city 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 city 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 city.

Section 3407. 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. Claims therefor may be collected in the same manner as municipal claims are collected, or they may be collected by action of assumpsit, the lien of the judgment, however, to be limited to the property assessed.

Section 3408. Waters Excepted.—Nothing contained in the preceding sections 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.

Section 3409. Construction of Dams.—Whenever the consent of the Water and Power Resources Board *and of the Federal government, whenever necessary*, has been granted to any city to construct and maintain a dam, in a public navigable river or stream flowing through, or partly within and partly without its corporate limits, for the purpose of improving the sanitary conditions thereof, such city may purchase, acquire, enter upon, take, use and appropriate private property, either within or without its territorial limits, for that purpose. If the city cannot agree with the owner or lessee of such private property upon the compensation for the property appropriated or the damages done, or when, by reason of the absence or legal incapacity of any such owner or lessee, no such compensation can be agreed upon, the court of common pleas of the county in which such property may be situate, or any judge thereof in vacation, on application thereto by petition by said city or such owner, lessee, or any person affected, shall appoint viewers to view and ascertain the damages done by reason thereof, and the proceedings thereupon shall be as provided in this act in the case of property taken, injured or destroyed.

Section 35. Sections 3501 to 3521 inclusive, paragraphs (1), (2) and (3) of subdivision (a) of article XXXV of said act, are reenacted, revised and amended as follows:

Sections 3501 to 3521, inclusive, paragraphs (1), (2) and (3) of subdivision (a) of article XXXV, said act, reenacted, revised and amended.

Article XXXV

PUBLIC SERVICE

(a) Water Supply

(1) General Provisions

Section 3501. Exclusive Right to Furnish Water to City; Frontage Tax.—Each city shall have the exclusive right, at all times, to supply the city with water, and such persons, partnerships, and corporations therein as may desire the same, at such prices, as may be agreed upon; and for that purpose to have, at all times, the unrestricted right, by ordinance, subject to the provisions of existing laws, to make, erect, and maintain all proper works, machinery, buildings, cisterns, reservoirs, pipes, conduits, for the raising, reception, conveyances, and distribution of water; or, in territory not supplied with water, to make contracts with and authorize any person, company, or association so to do and to give such person, company, or association the privilege

of furnishing water, as aforesaid, for any length of time not exceeding ten years. Whenever an extension of a supply of water to portions of the city not previously supplied shall be made, it shall be lawful to charge all owners of houses, lots, and buildings on each side of the street a frontage tax [, at such rate per foot as council may, by ordinance, fix] *for the local water supply part thereof according to the foot front or the assessed valuation of the property for city purposes or according to benefits.* This tax shall be collected and recovered in the manner provided by law for the recovery of municipal claims. The legal title to all waterworks heretofore vested in any city by equitable title shall, after the effective date of this act, be vested in such city. Said waterworks shall be operated, maintained, and managed in the same manner and subject to the same provisions as any waterworks, owned or acquired by cities.

(2) Acquisition by Eminent Domain

Section 3505. Appropriation of Lands and Waters.—Any city 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 city, may lay pipes under and over any lands, rivers, streams, bridges, highways, and [across] *under* railroads. No water appropriated under the provisions of this section shall be used in such manner as to deprive [the owner thereof] *riparian owners thereon* of the free use and enjoyment of the same for domestic or farm purposes.

Section 3506. Agreements as to Damages; Bonds.—Prior to any such appropriation, the city shall attempt to agree with the owner as to the damage done, or likely to be done. If the parties cannot agree, or the owner cannot be found, or is under legal incapacity, the city shall [, if required by the court upon] petition [, file its bond in] the court of common pleas *to fix the amount of its bond, with or without surety, as the court may direct*, conditioned for the payment to the owner of the property of the damages for the taking thereof, when the same shall have been ascertained, *and shall file said bond, as approved, in the said court.*

Section 3507. Appointment of Viewers; Proceedings.—Upon petition of either the property owner or city, 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 by newspaper publication, at least once in at least one newspaper, ten days prior to such meeting, as required by section one hundred and nine of this act, and the posting of hand bills along the line of said improvement. The proceedings for the assessment of damages shall be as provided in this act in case of property taken, injured or destroyed.

(3) *Acquisition by Purchase after Appraisalment

Section 3515. 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 city is desirous of owning and operating such water-works or system,] *which furnishes water within the city*, such city may present its petition to the court of common pleas of the county, setting forth that the city is desirous of owning *and operating* 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. *A city may acquire, by agreement with the owner thereof, any water-works or system which furnishes water within the city, or a part thereof, and within nearby municipal subdivisions, or parts thereof.*

Section 3516. Appointment of Engineers as Appraisers to Make Valuation.—The court shall thereupon appoint three [civil] *registered* engineers, *in civil engineering*, 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 3517.—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 3518. Appeal from Appraisalment.—Within ten days after notice of the filing of any report, 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

* "Aquisition" in original.

power to modify such report, and either party may appeal from the final confirmation of such report to the Superior or Supreme Court.

Section 3519. Effect of Failure of Owner of Works to Accept Price Fixed.—After the value is finally determined, the city may 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 city at the valuation fixed. And, in default thereof, such person, firm, or corporation shall cease to have any exclusive privilege of supplying the city, or the citizens thereof, with water, and the city may install such water-works or system as may be necessary for the accommodation of the public.

Section 3520. Issue of Bonds.—For the purpose of [such] *any purchase authorized by this article*, the city 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 city.] *general obligation bonds or utility bonds or non-debt revenue bonds issued as provided by the Municipal Borrowing Law.*

Section 3521. 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 35.1. Sections 3522 to 3524 inclusive, paragraph (3), subdivision (a) of said article and act are hereby repealed.

Section 35.2. Sections 3530 to 3532 inclusive of paragraph (4), section 3540 of paragraph (5), sections 3550 to 3553 inclusive of paragraph (6), sections 3560 to 3564 inclusive of paragraph (7), sections 3570 and 3571 of paragraph (8), all of subdivision (a), and sections 3575 and 3576, subdivision (b), and sections 3580 to 3589 inclusive, subdivision (c), all of said article and act, are hereby reenacted, revised and amended as follows:

(4) Acquisition of Competing Water Companies
by Cities

Section 3530. Power to Acquire Companies Operating in Same Territory.—Any city owning, operating, or controlling a system of water-works for the supplying of water to persons, partnerships, and corporations residing therein, and for [fire protection] *municipal purposes*, whether the title to the said water-works be in the name of commissioners of water-works or in the city itself or otherwise, may acquire all the water-

Sections 3522 to 3524, inclusive, paragraph (3), subdivision (a), said article and act, repealed.

Sections 3530 to 3532, inclusive, of paragraph (4), section 3540 of paragraph (5), sections 3550 to 3553, inclusive, of paragraph (6), sections 3560 to 3564, inclusive, of paragraph (7), sections 3570 to 3571 of paragraph (8), all of subdivision (a), and sections 3575 and 3576, subdivision (b), and sections 3580 to 3589, inclusive, subdivision (c), all of said article and act, reenacted, revised and amended.

works, including water pipes, mains, service attachments, fire hydrants, and improvements of any water corporation or private individual operating partly within and partly without the limits of the said city, both so much as is included within the limits of the said city, and so much as is without the limits of the said city, serving the territory adjacent thereto, and acquire and exercise all of the franchises and powers of said prior owner both within and without the city limits.

No such municipal acquisition shall be valid until, upon application filed by the city and formally joined in by the proposed vendor water company, the Public [Service] *Utility* Commission [of the Commonwealth of Pennsylvania] shall have found and determined, after public hearing, that the granting of such application and the service contemplated by the city is necessary or proper for the service, accommodation, and convenience of the public. In any such proceeding, the entire matter shall be before the commission, and no further specific approvals of the said commission, which might otherwise be required, shall be necessary.

Section 3531. Service Outside Limits *Subject to Control of Public [Service] *Utility* Commission.—The service of water by any such city in the territory outside of the limits of the city shall be subject to regulation and control by the Public [Service] *Utility* Commission as to character of service, extensions, and rates, with the same force and in like manner as though the city serving in such territory were in fact a water corporation and with respect to such territory outside of the limits of the city, and shall have all the powers and be subject to all the duties of a water corporation.

Section 3532. Different Rates Within and Without City.—Inasmuch as the city may be serving its inhabitants at less than the actual cost of service, including capital charges and **depreciation, because the plant may have been or may be built and operated in part out of the funds raised by municipal taxation, no rate, classification, rule, regulation, or practice, put in operation by the city in the portion of its territory supplied, located beyond the city limits shall be considered as unjustly discriminatory solely by reason of the fact that a different rate, classification, rule, regulation, or practice is in operation within the boundaries of the municipality with respect to a similar service rendered.

(5) Power to Furnish Water to Consumers outside City

Section 3540. All cities wherein the title to the water-works therein located is or shall hereafter be in the name of the city may extend the water-pipes and

* "subjects" in original.

** "depreciations" in original.

improvements of any such water-works, beyond the bounds of the cities wherein they are located, into the county and municipalities of the county in the vicinity of such cities; and furnish water to any and all corporations, institutions, persons, and [municipalities] *municipal subdivisions* in the counties in which said cities are located, in accordance with law and the rules and regulations of the Public [Service] *Utility* Commission. This section does not authorize a city to extend water-pipes or supply water in territory, outside the boundaries of such cities, which territory is being supplied with water by a private company.

(6) Power to Lease Water-Works

Section 3550. Lease of Water-Works.—The council of any city may, on behalf of such city, 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 3551. Terms of Lease; Rental.—The said leasing may be for such term of years and at such rental, as shall be agreed upon by the city and the private individual, copartnership, association, or corporation.

Section 3552. Operation of Property.—The property, so acquired, shall be operated in the same manner as if the same had been acquired by such city by purchase or condemnation proceedings.

Section 3553. Rates.—The council of the city, [with the consent of] *subject to* the Public [Service Commission] *Utility Law*, shall fix the rates to be charged for the water furnished [within] *without* the limits of such city to individuals, copartnerships, associations, or corporations.

(7) Condemnation of Lands for Road Purposes
and to Prevent Contamination

Section 3560. Overflowing Roads; Acquisition of Lands to Reconstruct Roads.—Whenever any city, 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 city 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 3561. Filing Maps and Plans.—After such change is made, the city 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 3562. **Condemnation of Lands to Prevent Contamination.**—Cities 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 3563. **Security for Payment of Damages.**—No land shall be taken, *injured or destroyed* 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 3564. **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 this act in case of property taken, injured or destroyed.

(8) Miscellaneous Provisions

Section 3570. **Power of City to Patrol Through Private Lands.**—Any city owning and operating a water-works system is hereby authorized and empowered to enter, by any of its employes, upon private lands through which may pass any stream or streams of water supplying such city, for the purpose of patrolling the drainage area of such stream or streams, and making investigations or inquiries pertaining to the condition of the stream or streams, sanitary or otherwise. Any injury or damage done to the property, so entered upon, shall be paid by such city.

Section 3571. **Leasing of Part of Water-Works for Yacht Harbor.**—The council, or the commission of water-works, or other body of any city having charge and control of the water-works property of any such city, may, subject to the approval of the State Department of Health, and subject to proper restrictions, lease, for a period of years, any portion of the real property, not exceeding three acres, and any water area, under its control, and not necessary or essential for the operation and maintenance of such water-works, for the purpose of establishing and maintaining a harbor for yachts and for the erection of proper and suitable buildings in connection therewith, whenever the occupation of the grounds and water areas so leased shall not interfere with the operation of such water-works or in any manner affect the sanitary conditions of any public water supply.

Any such lease, before the same is executed, shall be *submitted to and be approved by the Department of Health.

(b) Power and Light

Section 3575. Power to Furnish Light.—Cities shall have the exclusive right, at all times, to supply the city with electric, gas or other light, and such persons, partnerships, and corporations therein as may desire the same, at such prices as may be agreed upon; and shall have at all times, the unrestricted right to make, erect, and maintain the necessary buildings, machinery, and apparatus for manufacturing and distributing the same, or, in territory not supplied with light, to make contracts with and to authorize any person, company, or association so to do, and to give such person, company, or association the privilege of supplying gas or other light, as aforesaid, for any length of time not exceeding ten years.

Section 3576. Street Lighting; Ornamental Lighting Systems.—Cities may, by ordinance, provide for and regulate the lighting of streets with gas or electric light, or light by other means, and, upon petition of the majority of the property owners in number or interest abutting on any street or section thereof, may install ornamental lighting systems and assess the costs of installation, maintenance, [and/] or operation entirely upon the city, or entirely upon the abutting property owners, or partly upon the abutting property owners and partly on the city.

(c) Water and Lighting Commission

Section 3580. Creation of Water and Lighting Department.—Any city which now has or which may hereafter have the title to any water, gas, or electric light works, by conveyance to the same or by operation of law in its corporate name, or which may hereafter erect or purchase water, gas, or electric light works, under the provisions of this act, may create a department to be called the water and lighting department, and, for the organization and government of the same, the council may divide the city into three districts for the election of a board of commissioners, which districts shall be numbered one, two, and three; one commissioner to be chosen from each respective district, of which he shall be a resident at the time of his election, and no member of council or person holding any city office shall be eligible as a member of said board.

Section 3581. Election of Members of Commission.—The council of such city creating such department, as aforesaid, may, on the second Monday of April, or

* "submitted" in original.

within thirty days thereafter, elect one person from each of said districts as a member of the board of commissioners of the water and lighting department; and at the first election each member of council shall vote for but two commissioners, and the three persons, being one from each of said districts, having the highest number of votes shall be declared elected. The commissioners so elected shall serve for the term of one, two, and three years, respectively, to be computed from the date of election, and until their successors are duly elected and qualified. The term of each shall be determined by lot at the first meeting of the board, and thereafter on the second Monday of April of each year, or within thirty days thereafter, the council shall elect one commissioner to serve for the term of three years.

Section 3582. Compensation of Commissioners; Oath; Removal; Filling of Vacancies.—The members of the board of commissioners, created as aforesaid, shall receive such compensation for their services as may be provided by ordinance. Before entering upon their respective duties, they shall take and subscribe the oath prescribed by this act for city officers, and they shall be removable by council for misdemeanor in office or neglect of duty. All vacancies occurring in the board shall be filled by council for the unexpired term.

Section 3583. Duties of Board.—The board shall take charge of the water and lighting department so created, and shall employ and dismiss at pleasure a superintendent and a clerk, who shall be secretary of the board, whose compensation shall be fixed by council. The board shall employ such laborers, mechanics and workmen as they may deem necessary for the economical and efficient administration of said department. They shall purchase such materials and supplies as may be required for keeping the works in good repair, and have charge and control of all constructions, repairs, enlargements and extensions of the works, and shall conduct and manage the affairs and business of the department in accordance with law and the directions of council.

Section 3584. Estimates of New Work to be Furnished Council.—The said board of commissioners shall, whenever called upon by council, make and submit to them full estimates of the cost, charges and expenses of any new work, enlargement, extension of water or lighting supply, or alteration which council may contemplate making relative to said works; and may, at any time, submit to council any suggestions and estimates they may see proper to make touching the improvement, extension, or enlargement of said works, but no new construction, reconstruction, extension, supply of water or

light, or enlargement of said works shall be undertaken by said commissioner so created, or materials or supplies be purchased therefor, without the previous consent and direction of council.

Section 3585. Payment of Cost of Extensions by Property Owners; Frontage Tax.—Whenever an extension of a supply of water or light to portions of the city not previously supplied shall be made by the said commissioners, they shall make out a full statement of the number of feet of main pipes laid or extended through any of the streets of the city in which main pipes were not laid before the said extension, and shall file the same in the department; and it shall be the duty of the clerk of said department, forthwith, on receipt of said statement to make out a list of all owners of houses, lots and buildings on each side of the street through which said pipes are extended, and to charge said owners, and each of them, for each and every house, lot or building so situated in said streets, at such rate per foot as council may by ordinance fix, for said mains extending along the front of their respective houses, lots and buildings. Nothing herein contained shall be construed to prevent council from providing for the payment of water and gas pipes by the city.

Section 3586. Collection of Frontage Tax; Assessment of Cost.—Said charge shall be called the frontage water tax, or lighting tax, as the case may be, and shall be collected and recovered in the manner provided by law for the recovery of municipal claims. Whenever any pipes for the conveyance of water or light shall be laid in any of the streets or highways within such city, the owners of the ground in front of which the same shall be laid shall pay for the expense thereof such sum for each foot of the front of their ground upon such street as council may, by ordinance, direct: Provided, That in all corner lots an allowance shall be made of one-third [(1/3)] the length of their front, but such allowance shall be always and only on the street [or highway] having the longest front and in case both *fronts are of equal dimensions, the allowance shall be made in the street in which the pipes shall be last laid, but in no case shall the allowance exceed sixty [(60)] feet on any corner lot: And provided further, That when a corner lot shall have erected upon it two or more separate tenements, there shall **only be an allowance made equal to one-third [(1/3)] of the depth of the corner tenement and the yard adjoining. The provisions of this and the foregoing section shall not apply to any lot or piece of ground in such city upon which there may be a supply of water or gas obtained from any other

* "front" in original.

** "only" omitted in original.

source whatever, but if at any time the owner of such lot or piece of ground shall desire to obtain a supply of water or gas from the works of such city, then and in that case the provisions of this section shall first be complied with.

Section 3587. Fixing Rates.—The board of commissioners may, with the approval of council, fix the water and lighting rates, and the quantity to be used, and for that purpose they shall, on the first Monday of March in each year, establish the rates for the succeeding year, which rates shall be submitted by them to council for its approval, and, when approved, such rates shall not be changed for and during the year, but if not approved, the existing rates shall continue until modified by the commissioners, with the approval of council.

Section 3588. Collection of Lighting and Water Rates.—Council shall provide, by ordinance, for the collection of all the lighting and water rates that may accrue, from time to time, to the city for the use of the water or light, fixing the time when such rates shall be payable, and the penalties for nonpayment thereof; and such rates shall be charged to the respective owners of the real estate on which such water or light is used, and if the same shall not be paid in accordance with the provisions of such ordinance, claims for the amounts due shall be registered in the city lien docket in the same manner as provided by law in the case of unpaid city taxes on real estate, with the like force and effect as to the lien thereof.

Section 3589. Report to Council; Accounts of City Treasurer; Disposition of Surplus.—The board of commissioners shall, annually at a stated meeting of council in the month of January, report to said council a full statement of all the repairs, alterations, reconstructions, new constructions, expenditures, and everything relating to the management and cost to the city of maintaining *each* of the said works. The city treasurer shall keep his accounts in such manner as to show in his monthly report, distinctly and separately, the entire amount of revenue realized during each month from the water and lighting departments of said city, respectively; and the revenues derived from the said water and lighting departments shall be applied exclusively to the purposes of said departments, respectively; and the surplus, if any, to the reduction of the debt thereof. Any surplus revenues from said water and lighting departments, after the payment of all the debts of said respective departments, shall be applied as follows: The surplus from the water revenues, to the reduction of the bonded indebtedness which has been created by the city for the erection and construction of its water-

works; and the surplus from the lighting revenues, to the reduction of any bonded indebtedness which has been created by the city for the erection and construction of its lighting plant.

Sections 3601 to 3612, inclusive, of article XXXVI, said act, re-enacted, revised and amended.

Section 36. Sections 3601 to 3612 inclusive of article XXXVI of said act are hereby reenacted, revised and amended as follows:

Article XXXVI

PUBLIC BUILDINGS AND WORKS

Section 3601. Hospitals, [Prisons] *Jails*, Poor Farms, Et Cetera.—[Cities] *Each city* may, by ordinance, erect, purchase, establish or maintain hospitals, [prisons] *jails*, workhouses, or houses of correction for juvenile or other offenders, *and* prescribe regulations for the government thereof; and erect all public buildings necessary for the use of the city, or of any department thereof; purchase, take, use, or occupy, private lands upon which to erect any of the said buildings; purchase, take, use, or occupy, within or without the limits of the respective city, whether within the county wherein is located the city, or within a county adjacent thereto, or within both, private lands and buildings; establish and maintain a general hospital, or hospitals, for the cure and treatment of the sick and injured, or a hospital or hospitals for the treatment and separation of persons suffering with contagious or infectious diseases, [with authority to] *and* prescribe rules and regulations for the government, management, and maintenance thereof; purchase, take, use, or occupy, within the limits of the county of such city or within a county adjacent thereto, or within both, private lands upon which to establish and maintain a poor farm, with all necessary and convenient buildings and appliances, where the city may support and maintain such poor persons as such city is by law required to support and maintain; acquire, by purchase, *or in other lawful manners*, within or without the city, but within the county *or counties in which the city is located*, sufficient real estate for present and future use upon which to erect workhouses or houses of detention, poor houses, garbage and incinerating furnaces. The proceedings for the assessment of damages for any property taken, occupied or used for any such purpose shall be the same as provided in this act for property taken, injured or destroyed.

Section 3602. Public Auditoriums, Libraries, Memorials and Monuments.—Cities may take, purchase, or acquire, *by any lawful means, or through condemnation proceedings*, property for the purpose of erecting thereon public auditoriums, public libraries, public memorial buildings, and monuments.

Section 3603. Payment of Cost of Erection and Maintenance.—Cities may appropriate money or issue bonds for the erection, on said property purchased or acquired through condemnation proceedings, public auditoriums, public libraries, public memorial buildings, and monuments. Cities may also appropriate moneys for the operation and maintenance of such public auditoriums, public libraries, memorial buildings, and monuments.

Section 3604. Proceedings for Assessment of Damages.—All proceedings for the assessment of damages for property taken for auditoriums, libraries, memorials and monuments shall be had in the manner provided by this act for property taken, injured or destroyed.

Section 3605. Donation of Land by City for Library Purposes; Contributions toward Maintenance.—Cities may donate ground thus acquired for a public library to any library association provided said association will furnish the funds for the erection of the library building, the plans of which are approved by the city, but only in such cases where the said library association is by its by-laws and charter compelled to put back into the property and surplus earnings from the operation of said library. Cities [, by order of council, may contribute, from time to time, towards the operating support of such library a sum not to exceed fifty per centum (50%) of the annual operating maintenance of said] *may make appropriations towards the operating expense of such library.*

Section 3606. Rental of Public Auditoriums; Disposition of Proceeds.—Cities, in the case of public auditoriums, may, by order of council, charge a [nominal] rental for the use of said auditorium. All moneys derived from rental of said auditoriums shall [first be devoted to the maintenance of said auditorium, and any annual balance accruing therefrom shall be turned over to the city funds for the maintenance of public parks and grounds] *be paid into the general fund of the city.*

Section 3607. Leasing of City Property as Memorials.—[Cities] *Each city* may lease real estate, the property of said city, on long term improvement leases, at a nominal rental or otherwise, to a corporation of the first class, for the purpose of providing an auditorium for dramatic, musical, artistic, literary [, or] scientific [events, including provision for the accommodation for] *or patriotic societies or [groups] events, or for such other purposes as may be approved, from time to time, by [the city, said auditorium to be a memorial to the heroes of the Great War] council.*

Section 3608. Term of Lease; Renewals; Improvements to be Erected.—Every such lease shall be for a term of not more than ninety-nine years, and may provide for a right of renewal for a like term, and shall contain provision for the improvement of the real estate by the erection of a suitable building or buildings of dignified and appropriate architecture, absolute ownership of which building or buildings shall revert to the city, free of any claim or charge, at the end of the term of the said lease or any renewal thereof.

Section 3609. Use of Buildings.—The building or buildings, so erected, may be used for any one or more of the following purposes, which are hereby declared, in respect of this subject matter, to be used for public purposes: As an auditorium for dramatic, musical, artistic, literary, or scientific events, including provision for the accommodation of patriotic societies or groups, or such other accommodations and features as may be approved, from time to time, by the city.

Section 3610. Title in City; Exemption from Taxation; Maintenance.—The title to the said property, as so improved, shall remain in the city, and neither the said real estate, nor the leasehold estate created by such lease, shall be subject to local or other taxation.

The [leases] *lessees* shall be exclusively liable for the maintenance and upkeep of the demised premises, and shall be solely responsible for the maintenance and operation thereof.

Section 3611. Rental.—Any such lease may provide that the lessor shall be entitled to receive a sum equal to the net income of said demised premises after reasonable reserves and proper amortization charges.

Section 3612. Location of City [Prisons] *Jails* Restricted.—No city shall erect or construct a city [prison] *jail* or lockup, or use any existing building or lock-up for the first time, which will be or is located within five hundred feet of any public school building.

Sections 3701 to 3713, inclusive, of article XXXVII, said act, reenacted, revised and amended.

Section 37. Sections 3701 to 3713 inclusive of article XXXVII of said act are hereby reenacted, revised and amended as follows:

Article XXXVII

PARKS, PLAYGROUNDS, AND RECREATION CENTERS

Section 3701. Plans of Parks and Playgrounds.—Every city shall have a general plan of its parks and playgrounds, including those which have been or may be laid out, but not opened. Said plan shall be filed in the office of the engineer or other proper office of the city, and all subdivisions of property thereafter made shall conform thereto. The location of parks or play-

grounds, laid out and confirmed by authority of council, shall not afterwards be altered without the consent of council. No map or plot of parks or playgrounds shall be entered or recorded in any public office of the county in which said city is situated until approved by council. No person shall hereafter be entitled to recover any damages for the taking for public use of any building or improvements of any kind which may be placed or constructed upon or within the lines of any located park or playground, after the same shall have been located or ordained by council.

Section 3702. Lands for Planned Parks to be Appropriated within Three Years.—Whenever any park, [or] parkway or playground may hereafter be superimposed upon the confirmed plan of the streets or parks of any city, in sections not entirely built up, by ordinance of council, unless an ordinance actually appropriating the land within the lines of said park, [or] parkway or playground to public use is duly passed by council thereof, or said land is acquired by council, within three years from the passage of said ordinance superimposing said plan upon said land, said ordinance superimposing said plans upon said land shall be void and of no effect, and said plan shall be automatically removed from said land as if it had never been placed thereon; nor shall any plan again be superimposed on said land without an accompanying ordinance condemning same to public use.

Section 3703. Acquisition of Lands and Buildings.—Cities may enter upon, take, use, purchase and acquire, by gift or by the right of eminent domain, lands, property and buildings, for the purpose of making, extending, enlarging, and maintaining public parks, parkways, playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, *hereinafter called recreation places*, may levy and collect such special taxes as may be necessary to pay for the same, and make appropriations for the improvement, maintenance, care, *regulation, and government of the same. Cities may designate and set apart for use for any of the purposes specified in this section lands and buildings owned by such cities and not dedicated or devoted to other public use. Cities may also lease lands and buildings in such [city] cities for temporary use for such purposes. Lands, property and buildings outside the limits of the city may be [taken] *acquired in like manner* for [the purpose of a park, parkway, or playground] *recreation places*, and such lands may be annexed to the city, in the manner provided by this act for the annexation of territory to a city.

* "regulations" in original.

Section 3704. Creation of Recreation Board.—The authority to supervise and maintain [parks, 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 council shall determine. Council may equip, operate, and maintain the [parks, 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. *The compensation of such officers and employes shall be fixed by council.*

Section 3705. Composition of Board.—If council shall determine that the power to equip, operate, and maintain [parks, 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 city such recreation board, which shall possess all the powers, and be subject to all the responsibilities of council under this article. Such board, when established, shall consist of five persons, two of [the members] *whom* shall be members of the school board. The board shall be appointed by the mayor with the approval of council 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 terms 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 for the unexpired term and shall be filled in the same manner as original appointments.

Section 3706. 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 3707. Joint Ownership and Maintenance.—Any city may, jointly with any other [city or] cities, [and/or any borough or] boroughs, [and/] or [township or] townships, *or any of them*, acquire property for, and operate and maintain, any [parks, playgrounds,

playfields, gymnasiums, public baths, bathing places, swimming pools, or indoor recreation centers] *recreation places*. Any city may join with any school district, in equipping, operating, and maintaining [playgrounds, playfields, gymnasiums, public baths, swimming pools, and indoor recreation centers] *recreation places*, and may appropriate money therefor.

Section 3708. Issue of Bonds.—The city council may issue *general obligation* bonds for the purpose of acquiring lands or buildings for [parks, parkways, playgrounds, playfields, gymnasiums, swimming pools, public baths, and indoor recreation centers] *recreation places*, and for the equipment therefor.

Section 3709. Maintenance and Tax Levy.—All expenses incurred in the operation of such [parks, parkways, 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 the city. Council 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 city, for the purpose of maintaining and operating [parks, parkways, playgrounds, playfields, gymnasiums, public baths, bathing places, swimming pools, and recreation centers] *recreation places*.

Section 3710. Leasing by City of its Parks or Playgrounds.—Cities may enter into contracts and agreements with any incorporated association, acting within its corporate powers, for the use by the latter of any park or playground, owned, leased, or occupied by said cities, for such period and upon such terms as to maintenance, upkeep and improvement of such ground as may be mutually agreed upon. No such contract or agreement, however, shall permanently exclude the public of said cities from the use and enjoyment of said parks and playgrounds. The said cities shall at all times be invested with the power and authority to adopt suitable rules and regulations concerning the use and occupation of said parks and playgrounds by the public generally, and by such incorporated associations specially.

Section 3711. Sale of Coal Under Parks or Commons.—Council may sell and lease, at the best price obtainable, and subject to such conditions as it may deem necessary to impose for the protection of the surface, the coal under any park or common owned by and situate within the corporate limits of the city. When any park or common shall front on a river or other public stream, such portion of the amount realized from the sale or lease of such coal may be used for the erec-

tion of retaining walls, as council shall deem necessary for the purpose. Before any such coal shall be sold or leased, the proposed sale shall be advertised, in accord with the provisions of section one hundred and nine of this act, at least once a week in three daily papers published in the city in which said coal is situate, if there be so many, and [also in some New York journal or magazine, devoted to coal mines and mining, for four weeks] *in any other publication, as council may determine*; and sealed bids shall be received, and the person, copartnership, association or corporation offering the highest and best price shall be the purchaser, *but council shall have the right to reject all bids.*

Section 3712. Use of Proceeds of Sale or Lease of Coal Under Parks.—Whenever any city shall have sold or leased the coal underlying any public park or common within the limits of said city, the proceeds of said sale or lease, except as hereinbefore otherwise provided, shall be applied only as follows: First. To the improvement, policing, and lighting of the said park or common, or the redemption of bonds issued for the improvement of said park or common; [second] *Second.* Any surplus of the said proceeds [left beyond what is required for improving, policing, and lighting said park or common] may *then* be applied and used for the purchase and improvement of other lands, within the limits of the city or immediately adjacent thereto, for use as [public parks or commons] *recreation places*, or for the building of bridges and construction of drains and sewers, *or for such other purposes as council may determine*: Provided, That no land shall be purchased for such use with said funds unless the ordinance authorizing the purchase shall have been passed by the affirmative vote of [two-thirds of the] *four* members [elected to the said] *of council.*

Section 3713. Application of *Coal Rentals to Payment of Cost of Improvements; Issue of Bonds.*—Whenever hereafter any such city shall have leased the coal under any public park or common for a rental or royalty payable in periodical instalments, in order to provide for the payment of the cost of any such improvements authorized in the preceding sections, the said city may, from time to time, issue [improvement] *general obligation* bonds [, based upon the faith and credit of the city and upon the pledge of such royalties, in such sums as may be from time to time required, not to exceed the cost of such improvement and the interest thereon. Such bonds shall bear interest at the rate not to exceed six per centum per annum, payable semi-annually]. *The issuance of any such bonds shall be in accordance with the Municipal Borrowing Law.*

[The said rental or royalty shall be paid to the city treasurer, and placed to the credit of the sinking fund for the redemption of said bonds and the payment of the interest thereon as the same shall become due. The method of redemption shall be provided for in *the ordinance authorizing the issuing of such bonds.]

Section 37.1. Section 3714 of said article and act is hereby repealed.

Section 37.2. Sections 3715 to 3722 inclusive of said article and act are hereby respectively renumbered 3714 to 3721 inclusive and so renumbered are reenacted, revised and amended as follows:

Section [3715] 3714. Appointment of Directors of City Trusts.—Whenever any property or estate, whatsoever, has been conveyed, bequeathed or devised to any city, in trust, for the purpose of establishing or maintaining a public park or other public purpose for the use and benefit of citizens of such city, the court of common pleas of the county in which such city is located, on petition of council of said city, shall appoint five persons as directors of city trusts, all of whom shall be citizens of such city, and none of whom shall hold any office or employment thereunder, who shall exercise and discharge all the duties and powers of said city, however acquired, concerning such property, conveyed, bequeathed or devised to such charitable use, to the extent that the same has been or hereafter may be, by statute or otherwise, vested in or delegated to the said city or the officers thereof. *The directors of city trusts may delegate the supervision and operation of such city trusts as are recreation places to the authority determined by council for recreation places of the city in accordance with section three thousand seven hundred four of this act.*

Section [3716] 3715. Term of Service; Removal; Vacancies.—The persons so appointed shall serve as members of the board of directors of city trusts during good behavior, subject, however, to [the] removal by the court of common pleas for dereliction or neglect of duty, or for any other cause deemed by the said court to be important for the conservation or *administration* of the said trust thus imposed upon them.

All vacancies shall be, from time to time, filled by the said court, on petition of the council, of said city, or any of its citizens.

Section [3717] 3716. Duties of Directors.—The said directors of trusts shall carefully invest and preserve the trust funds; make such rules and by-laws for the proper regulation of their business not inconsistent with the terms annexed to any conveyance, bequest or

Section 3714,
said article and
act, repealed.

Sections 3715 to
3722, said article
and act, respec-
tively renum-
bered 3714 to
3721, inclusive,
and as such re-
enacted, revised,
and amended.

* "the" omitted in original.

devise in any deed or last will and testament of any decedent; appoint and employ as many agents and employes as, in their judgment, shall be necessary for the proper discharge of the said trust or trusts; and, in the name and in accordance with the conditions of said trusts, do *any* and all things requisite for the proper administration and management of the property under their control.

Section [3718] 3717. Directors to be Agents of City; to Have no *Interest in Contracts.—The said directors, in the discharge of their duties and within the scope of their powers, shall be considered agents or officers of the city, but no compensation or emolument whatever shall be received by them for any services performed relating to the said trusts, nor shall any of them have or acquire any personal interest in any contract whatever made through them or their agents or employes.

Section [3719] 3718. Appointment of Park Guards.—The council of every city shall have power, under the provisions of this article, to provide, by ordinance, for the selection and employment of such number of persons as they deem necessary to act as park guards, fix their compensation and duties, and provide for their uniforming.

Section [3720] 3719. Powers of Park Guards.—Persons appointed as park guards, under any ordinance passed pursuant to the provisions of the preceding section, shall have, in the parks and playgrounds and other public places in such cities, and beyond the limits of such cities when such cities have acquired such lands, properties and buildings for park and playground or other public purposes, the same power, in preserving the peace, maintaining order, and making arrests, as policemen have in such cities.

Section [3721] 3720. Control of Park Guards.—Such park guards shall be under the supervision, control, and direction of the director of the Department of Parks and Public Property.

Section [3722] 3721. Sale of Unused and Unnecessary Land and Buildings.—The council of each city is hereby vested with the necessary power and authority to sell unused and unnecessary lands and buildings that have been dedicated to park purposes by public auction, upon sealed bids, or at private sale with approval of the court of common pleas: Provided, nevertheless, That before any such sale is made council shall advertise said proposed sale [in accordance with the publication required under the contract sections of the Third Class City Code] *twice in at least one newspaper in accordance with section one hundred and nine of this act.*

* "Interests" in original.

Section 38. Sections 3801 to 3810 inclusive, subdivision (a), sections 3820 and 3821, subdivision (b), and sections 3830 to 3838 inclusive, subdivision (c), of article XXXVIII of said act, are hereby reenacted, revised and amended to read as follows:

Article XXXVIII

SHADE TREES AND FORESTS

(a) Shade Trees

Section 3801. Shade Tree Commission.—Any city may, by ordinance, create a commission to be known as the Shade Tree Commission of such city; but in cities where the council of said city shall not elect to create by ordinance such Shade Tree Commission, the said council may exercise all the rights and perform the duties and obligations imposed by this article upon the Shade Tree Commission.

Section 3802. Composition of Commission.—The commission, *if ordained*, shall be composed of three [freeholders] *residents* of the city, who shall be appointed by the mayor, and shall serve without compensation.

[Whenever a shade tree commission is established by any city, the mayor shall appoint three freeholders, one] *One commissioner shall serve* 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 mayor to serve for a term of five years.

Vacancies in the office of commissioner shall be filled by the mayor for the unexpired term.

Section 3803. Powers May Be Vested in Park Commission.—Whenever in any city there exists a commission for the care of public parks, the council may also, by ordinance, provide that 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 3804. Powers of Commission.—The commission shall have exclusive custody and control of the shade trees [in] *of* the city, and may plant, remove, maintain, and protect shade trees on the [public highways] *streets and sidewalks* in the city. *The commission may require the planting and replanting of shade trees along the streets and sidewalks of the city, as council may direct. The kind of tree and the alignment and locations of the trees shall be determined by the commission or as council may direct, but shall not prevent necessary or reasonable use of streets, sidewalks, abutting property, or the conduct of business.*

Sections 3801 to 3810, inclusive, subdivision (a), sections 3820 and 3821, subdivision (b), and sections 3830 to 3838, inclusive, subdivision (c), of article XXXVIII, said act, reenacted, revised and amended.

The commission may, *with the approval of council*, either employ and pay [such] superintendents, engineers, foresters, tree-wardens, or other assistants, [as] or may contract for personal and professional services, for 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 city. 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 the city.*

Section 3805. Report of Commission.—The shade tree commission shall annually report in full to the council, *at council's first stated meeting in October*, of its transactions and expenses for the last fiscal year of the city. The park commission in cities wherein the park commission is authorized to act as the shade tree commission, may incorporate such transactions and expenses [in] *as a separate part of its regular report to council.*

Section 3806. Notices by Commission.—Whenever any shade tree commission, or park commission, acting as a shade tree commission, proposes to plant, transplant, or remove shade trees on any [highway] *street or sidewalk*, 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 city*, once a week for two weeks immediately preceding the time of the meeting, in accord with the provisions of section one hundred and nine of this act. The notice shall specify in detail the [highways] *streets or *sidewalks* or portions thereof upon which trees are proposed to be so planted, replanted, or removed.

Section 3807. Payment by Owners.—The cost of *furnishing*, planting, transplanting, or removing any shade trees in *or along* the [highways] *streets* of the city, 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 city treasurer.

Section 3808. Assessments; Liens.—Upon the filing of the certificate with the council, the city clerk shall cause thirty days' written notice to be given by mail to the persons against whose property an assessment

* "sidewalk" in original.

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 expense of the notice shall be paid by the city.*

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 city solicitor] in the same manner as municipal claims are filed and collected.

Section 3809. Maintenance by City; Tax Levy.—The cost and expenses of caring for such trees after [having] *they have* been planted [and the expense of the notice provided in the preceding section] shall be paid by the city.

The needed amount shall each year be certified by the commissioners to council *in time for inclusion in the proposed budget ordinance*, and the funds provided by council shall be drawn against, as required by the commission, in the same manner as money appropriated for city purposes.

The city council may levy a special tax, not to exceed the sum of one-tenth of one mill on the dollar on the assessed valuation of the property in said city, for the purpose of defraying the cost and expenses of caring for such shade trees and the administrative expenses connected therewith, or it may provide for such expenses by appropriations [equal to the amount certified to be required by the commission].

Section 3810. Penalties.—The commission, *to the extent as may be provided by ordinance of council*, 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 city 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] *authorized in* this article.

(b) Memorial Trees

Section 3820. [Planting of] Memorial Trees.—[Whenever, in any city, the council shall be satisfied that, by voluntary contribution or by appropriation of public money, sufficient funds are available to carry out the planting of a memorial tree for every Pennsylvanian who died in the service of the United States in World War I and **in World War II, or in conse-

* "penalties" in original.

** "in" omitted in original.

quence of disabilities incurred in such service during either war above mentioned, and who had been a resident of such city at the time of his or her enlistment or induction into said service, then the council may arrange for the planting of a memorial tree for every such Pennsylvanian who had been a resident of said city. Such trees either shall be planted near the homes of such Pennsylvanians or in a memorial grove. Such trees or groves shall be appropriately marked by metal plates, monuments, or other effective and permanent means, to identify the purpose for their planting.] *Council may provide for or authorize provision for memorial trees for residents of the city who died while in the military service of the United States or in consequence thereof. Council may make appropriations or accept contributions for this purpose. Such trees shall bear some permanent indication of their purpose.*

Section 3821. Penalty for Injury to Memorial Trees.—*Any person wilfully, maliciously, or negligently destroying or injuring any trees planted pursuant to the provisions of this subdivision (b) shall be guilty of a misdemeanor, and, upon conviction, shall be liable to a fine not exceeding five hundred [(\$500.00)] dollars, or imprisonment not exceeding three [(3)] months, or [by] both [such fine and imprisonment], in the discretion of the court.

(c) Forests

Section 3830. Acquisition of Land for Forest Purposes.—Cities 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 city. Such tracts may be of any size suitable for the purpose and may be located within or without the city limits.

Section 3831. 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 mayor shall submit to the [Secretary] *Department of Forests and Waters* and secure [his] *its* approval of the area and location of such land.

Section 3832. Ordinance Declaring Intention.—Whenever the council [of any city] 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.

* "An" in original.

Section 3833. Appropriations of Money.—All money necessary for the purchase of such tracts shall be appropriated in the same manner as appropriations for city 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] *the Municipal Borrowing Law*.

Section 3834. Rules and Regulations.—Upon the acquisition of any municipal forests or *lands suitable for such, 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 necessary. The council shall publish such rules, declare the uses of the forest in accordance with the intent of this subdivision (c) of this article, and make such provisions for its administration, maintenance, protection and development as shall be deemed necessary or expedient. The rules governing the administration of such forests shall have for their main purpose the producing of a continuing city revenue by the sale of forest products.

Section 3835. 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 city purposes. All revenue and emoluments arising from such forests shall be paid into the city treasury to be used for general city purposes.

Section 3836. Use of Forests.—Municipal forests may be used by the public as general outing or recreation grounds subject to the rules governing their administration as municipal forests.

Section 3837. Ordinance of Sale.—Whenever the council [of any city] deems it expedient to [alienate] *sell* any municipal forest, or part thereof, 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 shall be effective in legalizing such [alienation] *sale* until it has been approved by a majority vote of the people at the next ensuing *general, municipal or primary* election.

Section 3838. Appropriation for Forest Work.—Cities may 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 in forest work.

* "land" in original.

Sections 3901 to 3905, inclusive, of article XXXIX, said act, reenacted, revised and amended.

Section 39. Sections 3901 to 3905 inclusive of article XXXIX of said act are hereby reenacted, revised and amended as follows:

Article XXXIX

WHARVES AND DOCKS

Section 3901. Power to Erect and Maintain Wharves; Regulation; Charges.—Cities may erect and maintain wharves in navigable waters *within or* adjacent to the city, regulate the use thereof, *fix and* collect wharfage, *for all public wharves and docks within their limits in accordance with a regular schedule of charges*, establish wharf and dock lines, and construct and maintain docks, retaining walls, dams [and/or] and embankments. *They may regulate the anchoring of all manners of vessels within their limits and the depositing of freight on public wharves and docks. Cities may, pursuant to ordinance, purchase or condemn such land or other property as they may need for the purposes of wharves and docks.*

Section 3902. Erection of Market-Houses and Railway Tracks on Wharves; Charges; Licenses.—Cities may erect and maintain market-houses and terminal sheds or stations on [its] *their* wharves, for the receipt and distribution of freight, express, [and other matter hauled by boats, railroads, and street cars] *and cargo*; construct railroad and street railway tracks or other facilities on said wharves to provide for the convenient handling of such freight or express [matters] *or cargo*; and collect rents, tolls, or charges for the use of such market-houses, terminal stations, tracks, *wharves* and other facilities. No permit other than a license revocable at will shall be granted for the use of such tracks, terminal stations, *wharves*, or other facilities, and no exclusive permit for the use of such tracks or facilities shall be granted.

No structure so erected, and no right granted under the powers herein conferred, shall interfere with the general public use of wharves for [river] *water-borne* commerce.

Section 3903. Use of Unnecessary Wharves or Landings for Other Municipal Purposes.—Whenever any city, by ordinance, declares that any public landing, or public wharf, or part thereof, fronting on any navigable [river] *water* and lying within its limits, has become unnecessary for use for public landing or public wharf purposes, the city may take, enter upon, and occupy for use for any other public purposes whatsoever, the public landing, or public wharf, or part thereof, so

found unnecessary for such purposes, any limitation of use thereof by the municipality arising from donation, dedication, appropriation, statute, or otherwise, to the contrary notwithstanding.

Section 3904. Appropriation of [Wharf Properties] *Wharves and Landings* for General Purposes.—Cities are vested with the right of eminent domain for the purpose of appropriating, for such general public uses, all such public landings or public wharves, or parts thereof, so found unnecessary for such purposes, together with any easements, property and property rights connected therewith.

Section 3905. Assessment of Damages.—All damages arising from the exercise of the power of eminent domain hereunder shall be ascertained and awarded in the manner provided by this act for property taken, injured or destroyed.

Section 40. Sections 4001 to 4006 inclusive of article XL of said act are hereby reenacted, revised and amended as follows:

Sections 4001 to 4006, inclusive, of article XL, said act, reenacted, revised and amended.

Article XL

CITY PLANNING

Section 4001. City Planning Commission; Appointment of Commissioners; Vacancies; Powers.—A city planning commission, consisting of five persons to be appointed by the city council, is hereby created. In the first instance, one member of said commission shall be appointed for one year; one, for two years; one, for three years; one, for four years; and one, for five years. 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. No person holding office under the government of the city, except the mayor or other members of council shall be ineligible to serve as a member of the city planning commission. The commission may make and alter rules and regulations for their own organization and procedure, consistent with the ordinances of the city and the laws of the Commonwealth. The members of the commission shall serve without compensation, and make annually to the council a report of their transactions. The commission may, *pursuant to appropriations by council*, employ engineers and other *persons, [whose]

* "persons" omitted in original.

pay their salaries and wages, and incur other necessary expenses [of the commission, shall be provided for by appropriations of council].

Section 4002. Action on [Ordinances] *Bills* Relating to Public Buildings, Streets, Parks, Bridges, Et Cetera.—The *city* clerk [of council] shall [, upon introduction,] furnish to the city planning commission, for its consideration, a copy of all [ordinances and] bills, and all amendments thereto, relating to the location of any public building of the city; to the location, extension, widening, narrowing, enlargement, ornamentation, and parking of any street, [boulevard, parkway,] park, [playground] *recreation place*, or other public ground; to the relocation, vacation, curtailment, changes of use, or any other alteration of the city 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] *common carrier route*. The commission shall have the power to disapprove any [of the said ordinances, bills, or amendments] *such bill or amendments thereto*, which disapproval, however, must be communicated to council, in writing, within [one week] *ten days* from the introduction of [said ordinances] *the bill or the amendment*, but such disapproval shall not operate as a veto.

Section 4003. Maps of City and Environs; Recommendations to Council.—The city planning commission may make, or cause to be made, and lay before council, and, at [its] *council's* discretion, cause to be published, maps of the city or any portion thereof, [including] *and of* territory extending three miles beyond the city 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] *recreation place*, or any other public ground or public improvement, or any widening, extension, or relocation of the same, or any change in the city plan by it deemed advisable. It may make recommendations to council, from time to time, concerning any such matters and things [aforesaid], for action by council; and, in so doing, it shall have regard for the present conditions and future needs and growth of the city, and the distribution and relative location of all the [principle] *principal* and other streets and [railways] *common carrier routes*, 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 4004. Recommendations to Public Authorities, Corporations and Individuals.—The city planning commission may make recommendations to any public authorities, or any corporations or individuals in said cities, with reference to the location of any buildings, structures, or works to be erected or constructed by them.

Section 4005. Approval of Plans of Building Lots; Conflict of Jurisdiction.—All plans, plots, or re-plots 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 city limits, or for a distance of three miles outside thereof, shall be submitted to the city planning commission and be approved by it before it shall be recorded. No [unapproved] plan, *plot or re-plot* shall be received or recorded in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the city planning commission, *as required by law*. The disapproval of any such plan by the city 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 city concerning the maintenance or improvement of any such dedicated parts, until the proper authorities of the city shall have made actual appropriation of the same by acceptance, 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. Where the jurisdictional limit of three miles outside of the city limits, as provided in this section, may conflict with the zone of similar character connected with another municipality, the jurisdiction of said commission shall extend only to the point equidistant between the city limits and the limits of said municipality.

Section 4006. Jurisdiction may be Transferred to Other Municipal Bureau or Commission.—Cities may provide, by ordinance, for the exercise of all rights and powers herein conferred upon the city planning commission, by a park commission, or kindred municipal bureau or commission, authorized under existing laws.

Sections 4101 to 4125, inclusive, and subdivisions (a) to (e), inclusive, of article XLI, said act, repealed; and said article and act reenacted, revised and amended by adding thereto new sections 4101 to 4107 inclusive in subdivision (a), new sections 4110 to 4114, inclusive, in subdivision (b), new sections 4120 to 4129, inclusive, in subdivision (c), and new sections 4130 to 4133, inclusive, in subdivision (d).

Section 41. Sections 4101 to 4125 inclusive and subdivisions (a) to (e) inclusive of article XLI of said act are hereby repealed; and the said article and act are hereby reenacted, revised and amended by adding thereto new sections numbered 4101 to 4107 inclusive in subdivision (a), new sections numbered 4110 to 4114 inclusive in subdivision (b), new sections numbered 4120 to 4129 inclusive in subdivision (c), and new sections numbered 4130 to 4133 inclusive in subdivision (d), to read as follows:

Article XLI

ZONING, [AND] BUILDING [REGULATIONS] ORDINANCES, AND PUBLIC NUISANCES

(a) The Zoning Ordinances

Section 4101. Zoning.—Council shall have the authority to define zones within the city, in accordance with a comprehensive plan, to promote public health, safety, morality, and the general welfare:

(a) by adequately providing for light and fresh air, water, schools, parks and recreation places, transportation, sewerage, drainage and other public needs;

(b) by providing against the overpopulating of areas in the city, against traffic congestion, and against public panics or tumults from fires or other calamities;

(c) by reducing the possibilities of contagious *diseases and infections;

(d) by all other measures, for the avoidance of slums, for the proper development of residential areas, of business centers, and industrial areas; giving reasonable consideration to the character of the various districts of the city and their peculiar suitability to particular uses, so as to conserve property values and encourage the most appropriate use of the land throughout the city.

Section 4102. Zones.—Council may divide the city into zones and determine the number of zones, the shape and area of each, and the manner of establishing the boundaries thereof.

Section 4103. Classifications and Regulations within Zones.—Council may establish classes of buildings, structures and land for any or all of the purposes of zoning. Within the zones defined, council may regulate and restrict according to the classes established by it:

(a) The height, number of stories and size of buildings and other structures.

(b) Their construction, alteration, extension, repair, maintenance, replacement, or removal.

(c) Their density of occupancy.

* "diseases" omitted in original.

(d) *All facilities in or about them.*

(e) *Their location and use.*

(f) *The use of them or of land for trade, industry, residence, or other purposes.*

(g) *The percentage of lot they may occupy, and the size of yards, courts, and other open spaces.*

(h) *The materials used in or about the construction, alteration, extension, repair, maintenance, replacement or removal of buildings and structures, as to their combustibility and the fire-proof characteristics of the roofs of buildings and structures.*

(i) *The establishment, maintenance or setting back of building lines upon the streets.*

For the purposes of this section, provisions of the zoning ordinance may be supplied by reference to the building code in effect in the city.

Section 4104. Regulations and Restrictions to be Uniform.—All zoning regulations and restrictions ordained by council shall be uniform for each class of buildings, structures and land throughout each zone, but the regulations and restrictions may differ as between zones.

Section 4105. Public Nuisances.—Any building or structure erected, reconstructed, enlarged or added to, or removed into or within the zones established by council in violation of the zoning ordinance shall be a public nuisance per se and be abatable as such.

Section 4106. Penalties and Remedies.—Council may provide fines or penalties for the enforcement of the provisions of the zoning ordinance as authorized by this act, and may, in addition, institute proceedings to restrain or abate violations of the zoning ordinance, and to prevent the occupancy or use of a building or structure as to which there is a violation of the ordinance or as to which a violation would arise by such occupancy or use.

Section 4107. Certain Public Utility Buildings Exempted.—The Public Utility Commission, upon petition of a public utility company and after a public hearing, may determine that a building, structure or use of the company, present or proposed, which is or would be violative of the zoning ordinance, is reasonably necessary to the welfare of the public; and in such case, the zoning ordinance shall not apply to the building structure or use in question.

(b) *Procedure for Adoption of Zoning Ordinance*

Section 4110. Zoning Commission.—When council desires to consider the passage of a zoning ordinance, it shall appoint a zoning commission of five residents of the city. The duty of the zoning commission shall be

to prepare the substantial provisions of a proposed zoning ordinance as hereafter specified. Council may designate the city planning commission as the zoning commission. The zoning commission may, with the approval of council, retain or employ such expert assistants as it may deem necessary.

Section 4111. Procedure Before the Zoning Commission.—The zoning commission shall lay out the zones and the boundaries thereof, determine classes of buildings, structures and land, and shall draft such regulations and restrictions for each zone and the classes of buildings, structures and land therein, as shall seem appropriate. These proposals shall be embodied in the preliminary report of the zoning commission. The commission shall then proceed to hold public hearings on its preliminary report. Notice of the time and place of the first of such hearings shall be published on at least three consecutive days at least seven days prior to the first hearing, in a daily newspaper of general circulation in the city, in accordance with section one hundred and nine of this act. After the conclusion of the public hearings, the zoning commission shall prepare and submit to council its final report and recommendations.

Section 4112. Procedure Before Council.—Upon receipt of the zoning commission's final report and recommendations, council shall fix a time and place for public hearing by it thereon, and shall give at least ten days' notice of the first of such hearings, by publishing a brief notice thereof at least two times, in a daily newspaper of general circulation in the city, in accordance with section one hundred and nine of this act. The notice shall set forth the time and place of the first hearing, and state when and where a copy or copies of the final report and recommendations will be available for public inspection. Upon the conclusion of council's public hearings, if a zoning ordinance be deemed advisable by members of council, notice of intention to consider a proposed zoning ordinance shall be published in accordance with section one thousand fourteen of this act.

Section 4113. Publication not Required; Filing.—Notwithstanding any provisions for fines or penalties therein, the zoning ordinance or any amendments thereto need not be published after passage. The zoning ordinance, together with a map or plan, shall be filed in the office of the recorder of deeds, as may be required by law.

Section 4114. Amendments to Zoning Ordinance.—The regulations and restrictions, the classifications of buildings, structures and land, and the manner of establishing the boundaries of zones, contained in the

zoning ordinance, may be amended by council only in accordance with the procedure for enacting the zoning ordinance; but in case a protest against any proposed change, signed by the owners of at least twenty per cent either of the lots included in such proposed change, or of lots immediately adjacent in the rear thereof extending one hundred feet therefrom, or of those directly opposite thereto extending one hundred feet in depth from the street frontage of such opposite lots, is presented to council before passage of the amending ordinance, then an affirmative vote of at least four members of council shall be required for the proposed change. Council may refer any such matters for amendment to the city planning commission for a preliminary and final report, whether or not the planning commission acted as the zoning commission in the first instance. Such amendments of the zoning ordinance shall be filed in the office of the recorder of deeds, as may be required by law.

(c) Board of Adjustment

Section 4120. Board of Adjustment.—Any zoning ordinance passed by council shall provide also for a board of adjustment, to consist of three members appointed by council. The initial terms of the first three members shall be as follows: One shall serve until the first Monday of January following the adoption of the zoning ordinance; one until the first Monday of the second January; and the other until the first Monday of the third January. Their successors shall serve for a term of three years. Any vacancy shall be filled for the unexpired term only. A board member shall be removable for official misconduct or neglect of duty. Council may provide in the zoning ordinance for an alternate member of the board of adjustment to be appointed by council and to serve for a term of three years. It shall be the duty of any such alternate member to attend meetings of the board at the call of the chairman or acting chairman and to act in place of any absent member.

Section 4121. Conduct of Board's Business.—The board of adjustment shall meet at the call of the chairman and at such other times as the board may determine. All meetings shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or noting each absence or failure to vote. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. The board shall keep records of its examinations and other official actions, which shall be immediately filed in the office of the board and shall be a public record.

Section 4122. Functions of the Board.—The board shall adopt and make available to the public, rules in accordance with the zoning ordinance, for the exercise of its functions. The board shall:

(1) Hear and decide appeals upon allegations of material error in any order, requirement, decision or determination made by any official administering the zoning ordinance.

(2) Hear and decide special exceptions to the provisions of the zoning ordinance upon which the board is required to pass under the zoning ordinance.

(3) Authorize upon appeal, in specific cases, such variance from the provisions of the zoning ordinance as will not be contrary to the public interest, but will observe the spirit of the ordinance and achieve substantial justice where, because of special conditions, a literal enforcement would result in unnecessary hardships.

(4) Perform such other duties as may be provided for it in the zoning ordinance.

Section 4123. Appeals to Board.—Appeals to the board of adjustment may be taken by any person aggrieved or by any city officer 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 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.

Section 4124. Effect of Appeal.—An appeal to the board 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 has been filed with him, that in his opinion and by reason of facts which he shall specify therein, a stay would cause imminent peril to life and property. Upon such a certification, proceedings shall not be stayed, otherwise than by a restraining order granted by the board or by a court of record after notice to the officer appealed from and due cause shown.

Section 4125. Hearing of Appeal.—The board of adjustment shall fix a reasonable time for the hearing of the appeal, shall give public notice thereof by advertising at least one week before the hearing, once in a newspaper of general circulation within the city, in accordance with the provisions of section one hundred and nine of this act, and shall give due notice to the parties in interest. Any party may appear at the hearing in person, or by agent or attorney.

Section 4126. Board's Decision Upon Appeal; Disposition of Appeals and Exceptions.—The board shall decide each appeal within a reasonable time, and notice thereof shall forthwith be given to all parties in interest. The board's decision shall be immediately filed in its office and be a public record. In the exercise of its functions upon such appeals or upon exceptions, the board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, or may make such order, requirement, decision or determination as in its opinion ought to be made.

Section 4127. Appeal from Board's Decision.—Any person aggrieved by any decision of the board of adjustment or any city officer affected thereby may appeal therefrom, within thirty days, to the court of common pleas. Every such appeal shall specify the grounds thereof and the interest of the appellant. So far as practicable and consistently with the provisions of this article, the procedure for appeals from the board of adjustment shall be in conformity with the Rules of Civil Procedure of the Supreme Court regarding appeals from administrative agencies.

Section 4128. Testimony.—If, upon the hearing of the appeal, the court shall deem it necessary to have additional testimony, it may remand the appeal to the board of adjustment with instructions, or it may take testimony, or appoint a referee to do so, as it may direct, and to report the testimony to the court with his findings of fact and conclusions of law.

Section 4129. Disposition of Appeal; Costs.—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.

(d) Building Ordinances

Section 4130. Building Ordinance.—Each city may enact a building ordinance, which may provide for the following matters:

(a) A system of specifications and regulations to insure the structural safety and the incombustibility of buildings constructed, reconstructed, altered, enlarged, repaired, or maintained within the city.

(b) A system of specifications and regulations for the setting out, construction, alteration, repair, maintenance, occupation, sanitation, ventilation, lighting, water supply, toilet facilities, drainage, use, and inspection of

all buildings or parts of buildings, and the walls and foundations thereof, constructed, erected, altered, designed, or used, in whole or in part, for human habitation, and for the sanitation and inspection of land appurtenant thereto.

Section 4131. Form of Building Ordinance; Passage; Penalties.—The building ordinance may adopt any standard building code, published and printed in book form, covering any or all of the above items, without incorporating such code in the ordinance, or any city may enact any such building code as its building ordinance. In either event, the building ordinance or code need not be advertised after passage, but notice of its consideration, in such reasonable detail as shall be in conformity with a uniform form to be prepared or approved by the Department of Labor and Industry, shall be published as required by section one thousand fourteen of this act. Not less than three copies of the building ordinance adopted by council shall be made available to public inspection and use during business hours for at least three months after its adoption. The building ordinance may provide proper fines and penalties not exceeding three hundred dollars for violations thereof.

Section 4132. Building Inspectors.—Council may appoint building inspectors and fix their compensation. Such inspectors shall have the right to enter upon and inspect any and all premises at all reasonable hours for the administration and enforcement of the building ordinance. Any fees payable to them under the building ordinance shall be paid by them to the city treasurer for the use of the city as promptly as may be.

Section 4133. Actions to Restrain Violations.—The city may, in addition to the penalties provided by its building ordinance, bring actions at law or in equity to prevent or restrain, correct or abate any violations of its building ordinance.

Section 41.1. Subdivision (f) of article XLI of said act is hereby changed to subdivision (e), and sections 4140 to 4143 inclusive of that subdivision of the said article and act are hereby reenacted, revised and amended to read as follows:

[(f)] (e) Abatement of *Public Nuisances*

Section 4140. Petition for Removal of Public Nuisances; Viewers; Vacating Public Alleys, Lanes or Passageways, Declared Public Nuisances by Board of Health.—The council of any city may, by resolution, authorize and empower the mayor of such city to present a petition to the court of common pleas [of the county wherein such city is located], setting forth that any property, building, premises, business or occupation, specifying the same fully and describing the same accurately,

Subdivision (f) of article XLI, said act, changed to subdivision (e), and sections 4140 to 4143, inclusive, of that subdivision, reenacted, revised and amended.

located within said city has become a public nuisance, injurious or dangerous to the community and to the public health. Upon the presentation and hearing of such petition, if the nuisance complained of be not a *public nuisance*, per se, then the court may appoint three viewers, from the county board of viewers, to go upon the premises where said nuisance is alleged to exist—at a time to be fixed in the order appointing the same, of which time due notice shall be given to all persons affected, which shall be not less than twenty nor more than thirty days from the date of the order making such appointment—and shall thereupon, being * first duly sworn, view the property, premises, building, business or occupation, shall hear the parties, their witnesses and counsel, and shall make due report thereof to the court appointing them. *In any case where the board of health shall have declared any public alley, lane or passageway or a part thereof to be a public nuisance, any two or more owners of property adjacent or abutting thereon may petition council that such public alley, lane or passageway or part thereof be vacated in accordance with the procedure provided in this subdivision for the abatement of public nuisances; except that the viewers shall not question the finding of the board of health, but shall determine whether or not the said alley, lane or passageway or part thereof should be vacated. Council may, with or without the aforesaid petition, proceed for the vacating of any such public alley, lane or passageway or part thereof, except that in no case shall any such alley, lane or passageway be vacated in such a way or to such an extent as to deprive any lot abutting thereon of its sole means of ingress and egress; nor shall any alley, lane or passageway created by grant or contract and not therefore accepted by the public be vacated.*

Section 4141. Power of Viewers.—The viewers, appointed as aforesaid, may:

First. Determine whether or not the property, premises, building, business or occupation is a *public nuisance*, and, if they shall find it is *such a nuisance*, shall so return in their award; and

Second. Find what, if any, compensation shall be paid by the said city to the owner or owners of said property, premises, building, business or occupation for the abatement of the same, and if the **findings of the said viewers be in favor of ***the said city and direct the abatement of said nuisance, then judgment shall be entered upon their award within thirty days after the same is filed, unless the said award be ap-

* "the" deleted from original.

** "finding" in original.

*** "the" omitted in original.

pealed from or exceptions [there to] *thereto* be filed within thirty days. No execution or other process for the collection of any sum of money awarded to any person or persons, corporation or corporations, as compensation for the abatement of any *such* nuisance, shall issue until the said nuisance has been fully and completely abated, and return *thereof made to the court.

Section 4142. Appeals.—Any of the parties interested in any proceedings provided by the preceding two sections may appeal to the court of common pleas [of the proper county] within thirty days from the date of filing an award; such appeal to be in the same form as now governs appeals from the awards of viewers appointed pursuant to this act to assess damages for property taken, injured or destroyed, the party appealing to pay the costs incurred and to give bond, with one surety, for the payment of all costs which may thereafter be incurred. Upon such appeal being perfected, the court shall frame an issue, which issue shall be placed at the head of the next trial list then open, and shall be tried by the court and jury in the same manner as feigned issues are now tried. Upon such trial the jury shall have power to find the same facts as are provided may be found by the viewers. If the jury shall find in favor of the city and award any compensation to the owner or owners of said property, premises, buildings, business or occupation, judgment shall be entered upon the verdict [of a jury]. No execution or other process for the collection of such judgment shall issue until the nuisance complained of shall have been fully and completely abated, and return thereof made to the court; upon which the court shall have the power to award execution or other process necessary to enforce the collection of the judgment.

Section 4143. Abatement of *Public Nuisance* after Award by Viewers.—Whenever the award of viewers, or the verdict of a jury, shall find that a *public* nuisance exists, and the owner or owners of any property, premises, building, business or occupation causing the same shall fail to abate the same within sixty days from the date of the judgment, the authorities of said city shall have full power and authority to enter upon said property, premises or building where said nuisance exists and abate the same, and shall not be liable in any form of action for so doing. The cost and expense of abating the same shall be deducted from any compensation awarded in said proceedings.

Section 42. Sections 4201 to 4205 inclusive of article XLII of said act are hereby reenacted, revised and amended as follows:

Sections 4201 to 4205, inclusive, of article XLII, said act, re-enacted, revised and amended.

* "therof" in original.

Article XLII

AERONAUTICS

Section 4201. Power to Acquire Land for Aeronautical Purposes; Maintenance of Municipal [Airdromes] *Airports, Etc.*—[A] *With the approval of the Pennsylvania Aeronautics Commission, a city may acquire, by lease, purchase or condemnation proceedings, any land lying either within or without the territorial limits of the city, and within or without the territorial limits of the county in which such city is located, which, in the judgment of council, may be necessary and desirable for the purpose of establishing and maintaining municipal [airdromes and/or aviation landing fields] airports, landing fields or intermediate landing fields and other air navigation facilities.*

Section 4202. Proceedings for Condemnation.—The proceedings for the condemnation of lands under the provisions of this [act] *article*, and for the assessment of damages for property taken, injured or destroyed, shall be conducted in the manner provided by this act in the case of property taken, injured or destroyed. The title acquired by the city exercising the power of condemnation shall be a title in fee-simple.

Section 4203. Leasing of Land Acquired for Aeronautical Purposes.—Any city *acquiring land for any aeronautical purposes may lease the same, or part thereof to any individual or corporation desiring to use the same for the purpose of *taking off or landing* [or starting] an aeroplane [therefrom], or for other aeronautical purposes, on such terms and subject to such conditions and regulations as may be provided. Any such city 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 air mail delivery, or other aeronautical purposes, upon nominal rental or without consideration.

Section 4204. Operation of [Airdrome] *Facilities Jointly* [with County].—Any city [acquiring land for any aviation purpose] may operate and maintain [said] municipal [airdrome or aviation landing field] *airports, landing fields or intermediate landing fields and other air navigation facilities* jointly with any [county] *other political subdivision or with the Pennsylvania Aeronautics Commission*, upon such terms and conditions as may be agreed upon between the [corporate authorities of the city] *council* and the [county commissioners of the county] *corporate authorities of the other contracting party or parties.*

* "requiring" in original.

Section 4205. Appropriation for Support of [Airdromes or Landing Fields] *Air Navigation Facilities*.— [Cities, which do] *A city which does not own, lease, or operate municipal [airdromes or aviation landing fields] airports, landing fields or intermediate landing fields or other air navigation facilities,* may appropriate money for the support and maintenance of [airdromes or aviation landing fields] *any such facilities,* situate either within or without the [limitations] *boundaries* of [any] *the city,* [and within or without the limitations] *or of the county or counties* in which such city is located.

Sections 4301 to 4307, inclusive, subdivision (a), sections 4320 to 4326, inclusive, subdivision (b), and sections 4340 to 4353, inclusive, subdivision (c), of article XLIII, said act, reenacted, revised and amended.

Section 43. Sections 4301 to 4307 inclusive, subdivision (a), sections 4320 to 4326 inclusive, subdivision (b), and sections 4340 to 4353 inclusive, subdivision (c), of article XLIII of said act, are hereby reenacted, revised and amended as follows:

Article XLIII

PENSIONS

(a) Police

Section 4301. Police Pension Fund; Direction of.— Cities shall establish, by ordinance, a police pension fund, to be maintained by an equal and proportionate monthly charge against each member of the police force, which shall not exceed annually three per centum of the pay of such member; which fund shall at all times be under the direction and control of council but may be committed to the custody and management of such officers of the city or citizens thereof, or corporations located therein, as may be designated by council, and applied, under such regulations as 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, but such allowances as shall be made to those who are retired by reason of the disabilities of age shall be in conformity with a uniform scale. Any compensation paid to a corporate custodian of the police pension fund shall be paid from the general fund of the city.

Section 4302. Retirement; Final Discharge.—Such ordinance shall prescribe a minimum period of continuous service, not less than twenty years, and, when any minimum age is prescribed, a minimum age of fifty years, after which members of the force may retire from active duty, and such members as are retired shall be subject to service, from time to time, as a police reserve until unfitted for such service, when they may be finally retired by reason of age or disability.

Section 4303. Allowances.—Payments for allowances shall not be a charge on any other fund in the treasury

of the city or under its control save the police pension fund herein provided for. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of injury, 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 4304. Inalienable Rights in Fund.—Whenever any person shall become entitled to receive an allowance from the police pension fund, and shall have been admitted to participate therein, he shall not be deprived of his right to an equal and proportionate participation therein upon the basis upon which he first became entitled thereto.

Section 4305. Payments to Pension Funds by City.—There shall be paid annually to the organization or association, constituting and having in charge the distribution of police pension funds in every city, a sum of money not less than **one-half of one per centum*, nor more than one per centum of all city taxes [collected] levied by the city, other than taxes levied to pay interest on or extinguish the debt of the city or any part thereof.

Section 4306. Designation of Organization to Manage Pension Fund.—The organization, having in charge the distribution of police pension funds, herein mentioned, shall consist only of such as is by ordinance designated as the official and authorized organization or association to hold, receive, and distribute the funds of moneys for the purpose of pensioning the police officers of the city.

Section 4307. Trusts for Benefit of Police Pension Fund.—Any city may take, by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of such pension fund, and the care, management, investment and disposal of such trust funds or property shall be vested in such officer or officers of [such] *the* city, for the time being, as the [city] *council* may designate, and such care, management and disposal shall likewise be directed by ordinance and the said trust funds shall be governed thereby, subject to such directions, not inconsistent therewith, as the donors of such funds and property may prescribe.

(b) Firemen

Section 4320. Firemen's Pension Fund; Management; Annuity Contracts.—Except as hereinafter provided, cities shall provide annuity contracts or establish, by ordinance, a firemen's pension fund, to be maintained in part by an equal and proportionate monthly charge against each member of the fire department, which shall not exceed annually three per centum of the pay of such member. In any case where

* "on-half" in original.

there is an existing organization or association for the benefit of fully paid firemen, constituting and having in charge the distribution of firemen's pension funds, no annuity contract shall be provided, nor shall any firemen's pension funds be established under the provisions of this section unless and until the members of such organization or association, by a two-thirds vote, elect to transfer said existing fund into the pension fund required to be established by this section.

All pension funds established under the provisions of this section shall be under the direction and control of a board of managers consisting of the mayor, the director of accounts and finance, the director of the department having charge of the fire department, or in cities where the mayor is also the director of the department having charge, of the fire department, then the director of public safety, the city controller and the chief of the bureau of fire, ex officio, and two members of the fire department to be chosen by the members of the fire department. Of the first managers so chosen by the members of the fire department one shall be chosen for a term of two years and one for a term of four years. Biennially thereafter one manager shall be chosen for a * term of four years to take the place of the one whose term expires. In case of vacancy among the managers chosen by the fire department, a successor shall be chosen for the unexpired term. The fund shall be applied, under such regulations as the board of managers shall prescribe, for the benefit of such members of the fire department as shall receive honorable discharge therefrom by reason of service or age or disability and the families of such as may be killed in the service. All **such pensions as shall be allowed to those who are retired by reason of the disabilities or of service or age shall be in conformity with a uniform scale. Benefits allowed from such fund to families of such as are killed in service shall take into consideration the member's widow and his minor children under eighteen years of age, if any survive.

Section 4321. Retirement; Final Discharge.—Such regulations shall prescribe a minimum period of continuous service, not less than twenty-five years and a minimum age not less than fifty-five years, after which members of the department may be retired or elect to be retired on pension from active duty, and such members as are retired shall be subject to service, from time to time, as a firemen's reserve in cases of emergency until unfitted for such service, when they may be finally discharged by reason of age or disability.

* "third" deleted from original.

** "such" omitted in original.

Section 4322. **Maximum Amount of Pension.**—Payments of pensions shall not be a charge on any fund in the treasury of the city or under its control save the firemen's pension fund herein provided for. [This] *The* basis of the pension of a member shall be determined by the monthly salary of the member at the date of retirement, whether for disability, or by reason of age or service, and shall be one-half the annual salary of such member at the time of retirement computed at such monthly rate. In the case of the payment of pensions to members for permanent injury incurred in service, and to families of members killed in service, the amount and commencement of the payment of pensions shall be fixed by regulations of the board, which shall take into consideration the amount and duration of workmen's compensation allowed by law.

Section 4323. **Causes for Forfeiture of Rights in Fund; Other Employments.**—Whenever any person shall become entitled to receive a pension from the firemen's pension fund, and shall have been admitted to participate therein, he shall not thereafter be deprived of his right to participation therein upon the basis upon which he first became entitled thereto, except for one or more of the following causes, that is to say: Conviction of a felony or misdemeanor, becoming an habitual drunkard, or failing to comply with some general regulation relating to the management of said fund which may be made by the managers, and which may provide that a failure to comply therewith shall terminate the right to participate in the pension fund. Any termination of a pension shall be only after such due notice and hearing as shall be prescribed by regulation of the managers.

In case any retired member of the fire department shall, after retirement, engage in employment for compensation, his pension from the firemen's pension fund shall be reduced to such an amount that when added to the compensation he receives for employment, it shall equal the compensation he was receiving as a member of the fire department at the time of his retirement. At any time when such other employment for compensation ceases his pension shall be fully restored.

Section 4324. **Payments to Firemen's Pension Funds by City.**—There shall be paid to the firemen's pension funds by every city annually, a sum of money not *less than one-half of one per centum nor more than one per centum* of all city taxes [collected] *levied* by the city, other than taxes levied to pay interest on or extinguish the debt of the city or any part thereof.

Section 4325. **Transfer of Funds from Other Pension Funds.**—In any city wherein the members of

the fire department are members of a pension fund not established solely for the purpose of pensioning members of the fire department, there shall be transferred from such other pension fund into the firemen's pension fund required to be established by this act, the moneys contributed thereto by members of the fire department who have not been retired, and a just and equitable proportion of the moneys contributed by the city to such other pension fund for the future retirement of members of the fire department. Such transfers may be made by the transfer of securities. The amounts to be transferred shall be amicably adjusted by the managers of the firemen's pension fund and the pension board having the charge of such other pension fund. In case of disagreement as to the amount so to be transferred, the disagreement shall be resolved by the city council, whose action thereon shall be final.

Nothing contained in this section shall be construed to relieve any existing pension fund of its liability to continue the payment of pensions to retired members of the fire department in accordance with the laws and regulations under which such members were retired.

Section 4326. Trusts for Benefit of Firemen's Pension Fund.—Any such city may take, by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of such pension fund, and the care, management, investment and disposal of such trust funds or property shall be vested in such officer or officers of such city, for the time being, as the said city may designate, and such care, management and disposal shall likewise be directed by ordinance and the said trust funds shall be governed thereby, subject to such directions, not inconsistent therewith, as the donors of such funds and property may prescribe.

(c) Pension Funds for Employes Other Than Policemen and Firemen

Section 4340. Pension Funds for Employes other than Police or Firemen.—Cities may create a pension fund for the pensioning of employes of said cities who are not members of the police force or fire department thereof, and the families of such as may be injured or killed in the service, in the manner, under the conditions and subject to the qualifications following. *As used in this subdivision "employes" includes officers and officials of the city, whether elected or appointed.*

Section 4341. Pension Board; Duties.—In any city which creates such pension fund, there shall be created a board to be known as the pension board, consisting of the mayor, the city controller, the superintendent of finance, and two employes to be chosen by the employes

contributing to the pension fund. It shall be the duty of said board to register all persons employed by the said city, and to administer the collections and distribution of the fund herein provided for, and make such reasonable rules in the premises as such board may deem necessary to carry into effect the provisions of this act.

Section 4342. Retirement Age.—Every person, now or hereafter employed by any city which has created such pension fund and pension board as hereinbefore provided, of the age of sixty years, and upwards, who shall have been so employed for a period of twenty years or more, shall, upon application to the board of pensions herein created, be retired from service and shall, during the remainder of his or her life, receive the pension or compensation fixed by this act, subject to such qualifications as are herein contained.

Section 4343. Retirement Allowance; Proof of Disability.—During the lifetime of any person in the employment of any city creating such pension fund and pension board as hereinbefore provided, he or she shall be entitled to receive as a pension annually, from the fund set aside for the purpose, fifty per centum of the amount which would constitute the average annual salary or wages which he or she received during the last five years of his or her employment by the said city, said pension to be paid in semimonthly payments. Should any [persons] *person* so employed, after twenty years of service, be dismissed, voluntarily retired, or be in any manner deprived of his or her position or employment, before attaining the age of sixty years, upon continuing a monthly payment to the fund equal to the last amount due and paid monthly while in active service, said person shall be entitled to the pension above mentioned, notwithstanding he or she has not attained the age of sixty years at the time of his or her separation from the service of such city, but said pension shall not commence until he or she has attained the age of sixty years. Should any employe, however, become totally and permanently disabled, after twenty years of service and before attaining the age of sixty years, he or she shall be entitled to the said pension. Proof of total and permanent disability shall consist of the sworn statement of three practicing physicians, designated by the board, that the employe is in a permanent condition of health which would permanently disable him or her from performing the duties of his or her position or office.

Section 4344. Amount of Payments into Fund; Re-payment before Retirement.—The employes of any city, creating such pension fund and pension board, shall pay into the board of pensions monthly an amount equal

to two per centum of their monthly salaries or wages, [in no event, however, paying at a rate greater than four dollars per month,] which shall be applied to the purposes of the fund. Payment of the monthly amount or contribution herein mentioned shall cease and be discontinued at the time the beneficiary receives the pension herein provided. If for any cause any employe contributing to the pension fund shall cease to be an employe of the city before the said employe becomes entitled to a pension, the total amount of the contributions paid into the pension fund by such employe shall be refunded to him or her in full, without interest. If any such employe shall have returned to him or her the amount contributed as aforesaid, and shall afterward reenter the employ of the city, said employe shall not be entitled to the pension designated until twenty years after said reemployment, unless he or she shall return to the pension fund the amount withdrawn, in which event that period of twenty years shall be computed from the time said employe first enters the service of the city. In the event of the death of any such employe, before the said employe becomes entitled to the pension aforesaid, the said total amount of contributions paid into the pension fund by said employe shall be paid over to the estate of said deceased employe.

Section 4345. Payments by Laborers Optional.—Any person holding a position in any such city as a laborer, at a per diem wage, shall not be compelled to pay or contribute toward the pension fund herein provided for, but shall have the option or choice of so doing and, in that event only, of becoming entitled to the pension provided by this act.

Section 4346. Heads of Departments to Certify List of Employes.—The head of every department and office employing persons entitled to receive a pension shall certify to the board of pensions all persons so employed and the amount of salary or wages which is paid to said [employe] *employes*, together with dismissals, resignations, or terminations of service and, from the records of their office or department, shall furnish such other [relative] *relevant* information as the board of pensions shall require.

Section 4347. Receipt, Investment and Payment of Funds.—It shall be the duty of the board of pensions to receive and retain and, when deemed advisable, to invest the funds payable in accordance with the provisions of this subdivision of this article, and to pay over by warrant or check the amount due to said employes.

Section 4348. Appropriations to Fund by Council.—The council may annually set aside, apportion, and ap-

propriate, out of all taxes and income of such city, unto the board of pensions, a sum sufficient to maintain the pensions or compensations due hereunder.

Section 4349. Application.—The benefits conferred by this subdivision of this article shall apply to all persons employed in any capacity by, or holding positions in, the cities creating a pension fund and pension board in accordance with its provisions, but this subdivision shall not apply to employes of such departments, bureaus, or offices as are otherwise protected by pension authorized by law.

Section 4350. Computation of Time of Service.—The time of service herein specified, namely, twenty years, shall be computed from the time of the first or original employments, said employment to consist of service to the city and need not be continuous.

Section 4351. Funds Payable to be Free of Attachment.—The compensation or pension herein mentioned shall not be subject to attachment or execution, and shall be payable only to the beneficiary designated, and shall not be subject to assignment or transfer.

Section 4352. Employee Defined.—The term “employee,” as used in this subdivision, is meant to include all persons in the service of cities [of the third class] creating a pension fund and a pension board in accordance with the provisions thereof, who are not now otherwise protected by pensions authorized by this act.

Section 4353. Beneficiaries of Fund not to be Employed by City.—No person or persons who shall have become a beneficiary shall be employed by the said city in any capacity, excepting in an office elected by popular vote, but during any such elected term he or she shall not be entitled to a pension.

Section 44. Sections 4401 to 4409 inclusive of article XLIV of said act are reenacted, revised and amended to read as follows:

Sections 4401 to 4409, inclusive, of article XLIV, said act, reenacted, revised and amended.

Article XLIV

CIVIL SERVICE

Section 4401. Examinations Required of All Appointees.—No person or persons may be appointed to any position whatever in the police department, or in the engineering *department* or electrical department, *except as otherwise provided by law*, or in the position of building inspector, [or to any salaried position whatever in the fire department (except volunteer departments),] or *as health officers other than registered physicians, or as sanitary policemen or inspectors of*

the health department, without having first passed all the examinations hereinafter provided for, and having been appointed in the manner and according to the terms and provisions and conditions of this article.

Section 4402. Appointment of Examining Boards.—There shall be the following civil service boards in each city: (a) A board for the examination of applicants for appointment to any position in the police department; (b) a board for the examination of applicants for appointment [to any salaried position in the fire department (except volunteer departments), or] *as* health officers other than registered physicians, or *as* sanitary policemen or inspectors of the health department; (c) a board for the examination of applicants for appointment to any position in the engineering or electrical departments, *except as otherwise provided for by law*, or to the position of building inspectors.

Each of said boards shall consist of three citizens, who shall be elected by council for terms of four years or until their successors are elected and qualified. One of the members of the boards, provided for in clauses (a) and (b) of this section, shall be an educator and one shall be a physician. Any person may be appointed to one or more of said boards. *No city officer, official or employe shall be eligible for appointment to any civil service board.*

Section 4403. Terms; Filling of Vacancies; Compensation; Quorum.—At the first election in newly created cities, council shall elect to each of said boards one person to serve for two years, one person to serve for three years, and one person to serve for four years. Upon the expiration of the term of any member of any of said boards, in any city, one person shall be elected by the city council to serve upon said board for the term of four years. If any vacancies occur they shall be filled by the city council for the unexpired term. Each of said members, before entering upon the duties of his office, shall take and subscribe to the oath of office prescribed by this act and file the same, duly certified by the officer administering it, with the controller of the city. No salary or other compensation shall be paid to any member of the said boards. Two members of the board shall constitute a quorum necessary for the transaction of business of that board. Said boards shall organize for the purpose of transacting all business immediately after their first appointment and, from time to time, thereafter as new appointments to such board are made.

Section 4404. Rules and Regulations; Examinations.—Each of said boards shall prepare and adopt such rules and regulations to cover the selection and appointment

of all persons as hereinbefore provided, to be hereafter employed or appointed in said cities, as in the judgment of said boards shall be best adapted to securing the best service for the public. Such rules and regulations shall provide for ascertaining and determining, so far as possible, the physical qualifications, habits, reputation, standing, experience and education of all applicants for such positions, respectively; and they shall provide for examinations upon any and all subjects deemed proper or necessary by said boards for the purpose of determining their qualifications for the position sought and applied for.

Section 4405. Grading for Discharged [Soldiers or Sailors] *Servicemen*.—When any person who was engaged in the military [or naval] service of the United States during any [war] *military engagement* in which the United States [engaged] *participated*, and has an honorable discharge therefrom, shall take any examination for appointment or promotion, his examination shall be marked or graded [fifteen per centum perfect before the quality or contents of the examination shall be considered] *in the same manner as provided for all other examinations*. When the examination of any such person is completed and graded, *if the grade is passing, then* such grading or percentage as the examination merits shall be [added to the aforesaid fifteen per centum] *increased by fifteen per centum*, and such total mark or grade shall represent the final grade or classification of such person and shall determine his or her order of standing on the eligible list. *For the purpose of this article, the military service means the army, navy, marines, air force, coast guard, and any branch or unit thereof; and servicemen means the members thereof, including women; and military engagement includes land, naval and air engagements.*

Section 4406. Selection of Appointee from Certified List of Applicants.—Said boards shall make and keep, in numerical order, a list containing the names of all applicants for civil service positions in said city who may pass the required mental and physical examinations. Where more than one person takes examinations for any of said positions at the same time, the names of all those successfully passing such examination shall be entered upon the list of eligible names in the order of their respective percentages, the highest coming first. The board shall furnish to council a certified copy of all lists so prepared and kept. Wherever any vacancy shall occur in any civil service position in said city, the city council shall make written application to the president of the proper board, who shall forthwith certify to the city council, in writing, the four names on the list of

applicants for such position having the highest percentage, where there are four or more eligible names on the list, but [where there is only one name or] *if there be* less than four eligible names on such list, the board shall certify such name or names. Thereupon the director of the department in which such appointment is to be made shall nominate to the city council [the] a person [or one of the persons] from the list submitted to fill such [positions] *vacancy*. If the city council approves such nomination, the person nominated shall be appointed *by council* to fill such vacancy, and shall be assigned for service in the department. If the council does not approve such nomination, then the director of the department in which such appointment is to be made shall submit another nomination for such position from the remaining names, if any, and if such nomination is not approved by the council, he shall submit the third name, if any, and if such nomination is not approved, he shall submit the fourth name, if any. The person whose nomination by the director is approved by the city council shall be appointed to fill such a position in the department or as building inspector. In all cases the boards may recommend those in the employ of a department for promotion in case the person recommended is competent for the higher position. The name of the person so appointed shall be immediately stricken from the list of said board, and the names of the rejected persons shall immediately be restored to their proper place in said list: Provided, however, That if the [names] *name* of any applicant has been submitted to the said council and been rejected three times, then such name shall be stricken from the eligible list.

Section 4407. *Tenure; Preference in Appointment to [Soldiers and Sailors] Discharged Servicemen; Temporary Appointments.*—[The provisions of this article shall apply to all employes of said cities as described in section one of this article.] All appointments made [subject] *pursuant* to the provisions of this article shall be for and during good behavior, and no employe shall be removed or transferred for any political reasons whatever. Among those persons possessing qualifications and eligibility for appointment, preference in appointment shall be given to honorably discharged [soldiers and sailors who served in the Army or Navy of the United States during time of war: Provided, That preference may be given, by the appointing power, to all honorable discharged soldiers, sailors, and marines, who served in the Army or Navy of the United States during times of war, who have passed the required civil service examinations, notwithstanding, the fact that the names of such soldiers, sailors, and

marines may not be among the four names standing highest upon the eligible lists as hereinbefore provided. Such appointments of soldiers, sailors, and marines may be made without regard to any age limitations now provided for by law or the rules and regulations of any board or commission having in charge civil service regulations in any county, city, or borough] *servicemen and their spouses and surviving spouses as provided by law.*

All persons holding appointments in said several departments or as building inspectors of said cities, at the time this act goes into effect, shall retain their positions without being required to pass examination, and be removed only in accordance with the provisions of this article.

In case of riot or emergency, temporary appointments to positions in the civil service may be made without complying with the provisions of this article.

Section 4408. Suspension and Discharge; Reduction of Employes; Appeals [by Policemen].—All employes subject to civil service shall be subject to suspension by the director of the department for misconduct, or violation of any law of this Commonwealth, any ordinance of the city, or regulation of the department, pending action by the city council upon the charges made against any of such employes. On hearing before the city council, where they may be represented by *counsel, they may be fined or suspended for a period not exceeding thirty days with or without pay, or they may be discharged by city council, if found guilty of the charges made against them. The director of each such department may, for misconduct or violation as aforesaid, suspend any employe of such department for a period of ten days, with or without pay, without preferring charges and without a hearing of council: Provided, however, That if it should become necessary to reduce the number of men in said department for purposes of economy, seniority rights shall prevail, and any and all removals for such cause or causes shall be from the members last appointed, and the member or members serving the shortest time shall be removed first; but members with longer times of service may be discharged for cause.

Any [policeman] *civil service employe* aggrieved by the action of the council in fining, suspending or discharging him shall have the right to appeal by petition to the court of common pleas within thirty days after receipt of written notice of such action which it shall be the duty of the council to give [to the court of common pleas of the county, which] *and the court shall hear the charges made against [the policeman] him de*

* "council" in original.

nov. The issue before the court shall be whether the action of the council shall be affirmed or be modified in any respect or whether the charges should be dismissed. Where any [policeman] *such employe* has been suspended by action of council and the charges are dismissed on appeal, [the policeman] *he* shall receive full compensation for the entire period of suspension.

Section 4409. Secretaries of Boards; Compensation.—Each of said civil service boards may appoint a secretary and prescribe his duties. He shall be subject to removal at any time by the board appointing him, and such board shall have power to change his duties. The compensation to be paid said secretaries and all necessary stationery and supplies for said boards shall be such as council shall by ordinance direct.

Said act further amended by adding to article XLIV thereof, a new section 4410.

Section 44.1. Said act is hereby further amended by adding to article XLIV thereof a new section numbered 4410, to read as follows:

Section 4410. Review of Eligibility Lists.—The lists of eligible names kept by each civil service board shall be annually examined by the board for the purpose of deleting therefrom persons who are permanently unavailable for or disqualified for the position or positions involved, either by death, permanent removal from the area, written desire to be removed therefrom, or by other permanent cause, in conformity with the board's rules and regulations adopted pursuant to section four thousand four hundred four.

Sections 4501 to 4504, inclusive, of article XLV, said act, reenacted, revised and amended.

Section 45. Sections 4501 to 4504 inclusive of article XLV of said act are hereby reenacted, revised and amended to read as follows:

Article XLV

CHARITIES AND WELFARE

Section 4501. Creation of Department of Charity.—Council, by ordinance, may create a bureau for the purpose of administering charity and for support of the poor, create any office which may be deemed necessary for the proper government, support, and management of said bureau, and regulate and prescribe the powers, duties, and compensation of all such officers. Such bureau shall have the care, management, administration, and supervision of the charities, almshouses, poorhouses, and the relief of the poor of the city, subject, however, to the control of the council.

Section 4502. Power to Levy Special Tax.—Council may levy a tax annually, not exceeding ten mills on the dollar, on all persons and property taxable by the city for city purposes, for the support of said bureau.

Section 4503. Hospitals; Appropriations; Free Treatment for Poor.—Any city may acquire, by gift, devise, or bequest, lands, chattels, securities and funds for the establishment and maintenance of a hospital, for the purposes of caring for the sick and injured residents of such city and the vicinity thereof, and, for such purposes, to appropriate and expend money of the city: Provided, That the poor residents of such city shall receive free treatment to the extent that it is possible to provide for same with the means available. Such hospital, or any ward therein, may be named in accord with the wishes of any person making a substantial donation thereto by will or otherwise.

Section 4504. Appointment of Trustees for Gifts; Powers.—Such gifts, devises, bequests and appropriated funds shall be under the supervision of a board of trustees, to be appointed by council, consisting of at least nine trustees, three of whom shall be members of council, three of whom shall be licensed and practicing physicians in such city and the vicinity thereof, and the remainder of which board shall consist of residents of such city and vicinity thereof. Said appointments shall at all times be made subject to the approval of the orphans' court of the county in which said city is situated. Said board of trustees shall at all times be subject to the resolutions of council and the jurisdiction of said court, which shall have power to remove any of them upon petition of such city. Any vacancy in such board may be filled by a new appointment in manner aforesaid. Said board of trustees shall make reasonable rules for the management of such hospital, and appoint and remove the physicians, surgeons, nurses, and other employes necessary for the conduct thereof.

Section 45.1. Said act is hereby further amended by adding to article XLV thereof a new section numbered 4505, to read as follows:

Said act further amended by adding to article XLV thereof, a new section 4505.

Section 4505. Appropriations or Other Assistance for Hospitals.—Council may make appropriations for the support or assistance of hospitals within or near the city or, in lieu thereof, council may provide for services to such hospitals at the city's expense and with materials or equipment of the city.

Section 46. Section 4601 of article XLVI of said act is hereby reenacted, revised and amended as follows:

Section 4601 of article XLVI, said act, reenacted, revised and amended.

Article XLVI

COLLECTION OF MUNICIPAL CLAIMS BY SUIT AND COMPROMISE OF CLAIMS

Section 4601. Collection of Municipal Claims by Suit.—In addition to the remedies provided by law for the filing of liens for the collection of municipal claims,

all cities may proceed for the recovery and collection of municipal claims by action of assumpsit against the person or persons who were the owner or owners of the property at the time of the completion of the improvement, notwithstanding the fact that there was a failure on the part of any such city, or its agents, to enter any such municipal claim as a lien against the property assessed for the improvement, and for the recovery of which the action of assumpsit was brought. Any such action in assumpsit shall be commenced within three years after the completion of the improvement from which said claim arises.

This section shall extend to all municipal claims where the improvement was heretofore made, where the action of assumpsit has been instituted under the provisions of prior acts of Assembly, and where the claim was not barred by the statute of limitations affecting actions of [debt or] assumpsit.

Said act amended by adding to article XLVI thereof, three new sections 4602, 4603 and 4604, which sections are a continuance of the act of May 23, 1945, P. L. 907.

Section 461. Said act is hereby amended by adding to article XLVI thereof, three new sections numbered 4602, 4603, 4604, which sections are a continuance of the act, approved the twenty-third day of May, one thousand nine hundred forty-five (Pamphlet Laws 907), entitled "An act authorizing cities of the third class, with the approval of the court of common pleas, to accept less than the full amount of certain municipal claims filed as a lien against real estate in compromise settlements thereof." The said three sections shall read as follows:

Section 4602. Compromise of Municipal Claims; Court Approval.—Whenever any city has any municipal claim entered in the office of the prothonotary as a lien against real estate, which said claim has existed for ten years or more, council *may, with the approval of the court of common pleas, agree with the owner of such real estate to accept, in compromise or reduction of the amount of the claim and the interest charges, expenses and fees added thereto and due thereon, any sum less than the whole of such amount so due.

Section 4603. Satisfaction.—Upon receipt of the compromise amount so agreed upon and approved, the city shall cause the lien to be properly satisfied on the record, which satisfaction shall be as effective as if the whole amount of the claim, interest, charges, expenses and fees had been paid, and such claim shall no longer be a lien against the real estate or a claim against the said owner thereof.

Section 4604. Certain Claims Excluded.—The provisions of sections four thousand six hundred two and four thousand six hundred three shall not apply to or in any manner affect any claims, the assessments for

* "pay" in original.

which are the sole basis of improvement bonds issued by any political subdivision and which are the security for the payment thereof, or any claims, the assessments for which have heretofore been assigned by any political subdivision to any contractor in payment of the amount due him under terms of the contract for the improvement for which the assessment was levied.

Section 47. Section 4701 of article XLVII of said act is hereby repealed; but this repeal of the said section does not revive the acts and parts of acts of Assembly which were repealed by the said section.

Section 47.1. The said act is hereby further revised and amended by enacting, in article XLVII thereof, a new section numbered 4701, which new section is, to the extent its provisions are the same or substantially the same as those of the section 4701 hereinabove repealed by section 47, a continuation of the said repealed section 4701. The new section numbered 4701 shall read as follows:

Section 4701 of article XLVII, said act, repealed.

Said act further revised and amended by enacting, in article XLVII thereof, a new section 4701.

Article XLVII

ACTS OF ASSEMBLY REPEALED; SAVING CLAUSE

Section 4701. Repeals and Saving Clause.—The following acts and parts of acts of Assembly are hereby repealed as particularly set forth:

The act, approved the twenty-fifth day of March, one thousand eight hundred seventy-eight (Pamphlet Laws 8), entitled ‘An act authorizing cities of the third class to levy and collect taxes for park purposes, and curing any defects in previous levies,’ absolutely.

The act, approved the thirty-first day of May, one thousand nine hundred nineteen (Pamphlet Laws 358, Number 172), ‘An act to amend section three, article five of the act, approved the twenty-seventh day of June, one thousand nine hundred thirteen (Pamphlet Laws 568), entitled ‘An act providing for the incorporation, regulation, and government of cities of the third class; regulating nomination and election of municipal officers therein; and repealing, consolidating, and extending existing laws in relation thereto,’ by adding thereto clause forty-nine relative to the collection and disposal of garbage, ashes, and other waste and refuse matter,’ absolutely.

The act, approved the fourth day of June, one thousand nine hundred nineteen (Pamphlet Laws 373), entitled ‘An act to amend section three, article five of the act, approved the twenty-seventh day of June, one thousand nine hundred thirteen (Pamphlet Laws, five hundred and sixty-eight, entitled ‘An act providing for the incorporation, regulation, and government of cities

of the third class; regulating nomination and election of municipal officers therein; and repealing, consolidating, and extending existing laws in relation thereto,' by adding thereto clause forty-nine, relative to appropriations for municipal music," absolutely.

The act, approved the tenth day of March, one thousand nine hundred twenty-one (Pamphlet Laws 29, Number 10), entitled "An act for the relief of certain county treasurers and county tax collectors, in the settlement of county, poor, and State taxes, in cities of the third class," absolutely.

The act, approved the twenty-second day of April, one thousand nine hundred twenty-seven (Pamphlet Laws 358), entitled "An act authorizing and empowering cities of the third class to recognize the moral obligation of the city to pay just claims against the city, although under existing laws no legal recovery could be had against the city," absolutely.

Section seven hundred twenty-three of the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within the Commonwealth, liability for damages caused by the negligent operation of their motor vehicles; imposing penalties; imposing certain costs upon counties; *providing for the disposition of fines, forfeitures, fees, and miscellaneous receipts; making an appropriation and providing for refunds," in so far as inconsistent with the provisions of this act.

The act, approved the seventeenth day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1801), entitled "An act authorizing cities of the third class to provide, by ordinance, for the payment for public work or improvements heretofore made for or

* "providing for the disposition of fines" omitted in original.

furnished to the city, and accepted and used by the city, where no legal or valid contract was entered into as required by law," *absolutely.

The act, approved the twenty-second day of May, one thousand nine hundred thirty-three (Pamphlet Laws 923), entitled "An act to authorize cities of the third class to sue out writs of scire facias on certain municipal claims, where more than five years have elapsed since said claims were filed, and to reduce such claims to judgment; and providing for the revival and collection of such judgments," absolutely.

The act, approved the sixteenth day of May, one thousand nine hundred thirty-five (Pamphlet Laws 176, Number 82), entitled "An act requiring cities of the second and third class to allow members of the police departments, twenty-four consecutive hours of rest each week, and fourteen days vacation each year, except in emergency cases," so far as it relates to cities of the third class.

The act, approved the first day of May, one thousand nine hundred thirty-nine (Pamphlet Laws 40), entitled "An act to amend the title and the act, approved the sixteenth day of May, one thousand nine hundred thirty-five (Pamphlet Laws, one hundred seventy-six), entitled 'An act requiring cities of the second and third class to allow members of the police departments, twenty-four consecutive hours of rest each week, and fourteen days vacation each year, except in emergency cases,' extending the provisions of said act to cities of the second class A," so far as it relates to cities of the third class.

Sections six hundred eighty-two and six hundred ninety of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," so far as they relate to cities of the third class and are inconsistent with the provisions of this act.

The act, approved the twenty-third day of May, one thousand nine hundred forty-five (Pamphlet Laws 907), entitled "An act authorizing cities of the third class, with the approval of the court of common pleas, to accept less than the full amount of certain municipal claims filed as a lien against real estate in compromise settlements thereof," absolutely.

The act, approved the second day of May, one thousand nine hundred forty-seven (Pamphlet Laws 149), entitled "An act authorizing cities to enact ordinances prohibiting smoking or the carrying of lighted cigarettes, cigars, pipes or matches or using matches or other fire

* "aboslutely" in original.

producing devices in certain retail stores within such cities and to provide penalties therefor," so far as it relates to cities of the third class.

All other acts or parts of acts of Assembly supplied by or inconsistent with the provisions of 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 cities of the third class, except as to the several matters enumerated in section one hundred and three 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 *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, the 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; or the provisions of the Airport Zoning Act; or any of the provisions of the act, approved the thirty-first day of May, one thousand nine hundred thirty-three (Pamphlet Laws 1108); or any of the provisions of the act, approved the thirteenth day of May, one thousand nine hundred thirty-seven (Pamphlet Laws 620); or any of the provisions of the act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws 2803), or any of the provisions of the act, approved the twenty-third day of May, one thousand nine hundred forty-five (Pamphlet Laws 903); or any amendments or supplements of them; or any laws or parts of laws pertaining to civil defense.*

* "Utility" in original.

APPROVED—The 28th day of June, A. D. 1951.

JOHN S. FINE

No. 165

AN ACT

To re-enact and amend the title and the act, approved the fifteenth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 796), entitled "An act providing for the preservation of the records of banks, bank and trust companies, trust companies, savings banks, and private banks; and imposing penalties for violations," by extending the provisions thereof to national banking associations; making photostatic film reproductions or photographic or photostatic copies of