

## No. 230

## AN ACT

Relating to counties of the second class; amending, revising,  
consolidating and changing the laws relating thereto.

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\* "Audit" in original.

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\* "Article" in original.

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

Second Class  
County Code.

## Article I

### Preliminary Provisions

Section 101. Short Title.—This act shall be known and may be cited as the Second Class County Code. The provisions of this act shall become effective on the first day of the month next following its final enactment.

Section 102. Applicability.—This act applies exclusively to counties of the second class.

Section 103. Excluded Provisions.—This act does not include any provisions of and shall not be construed to repeal:

(1) The Municipal Borrowing Law, approved the twenty-fifth day of June, one thousand nine hundred forty-one (Pamphlet Laws 159).

(2) The Pennsylvania Election Code, approved the third day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1333).

(3) The County Institution District Law, approved the twenty-fourth day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 2017).

(4) The Local Health Administration Law, approved the twenty-fourth day of August, one thousand nine hundred fifty-one (Pamphlet Laws 1304).

(5) The Municipal Unclaimed Moneys Act, approved the seventeenth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1403).

(6) Any law relating to the collection of municipal and tax claims.

(7) Any law relating to the assessment and valuation of property and persons for taxation.

(8) Any law relating to the giving of county consent to public utility corporations.

(9) Any law relating to State highways.

(10) Any law relating to the validation of elections, bonds, resolutions and accounts of corporate officers.

(11) Any law relating to collections by county officers of moneys for the Commonwealth and the issuance of State licenses.

(12) Any law relating to the government and regulation of jails, prisons and other correctional institutions and the commitment thereto and maintenance and care of prisoners or inmates therein.

(13) Any law relating to civil and criminal procedure, except special provisions concerning actions by or against counties or county officers.

(14) Any law relating to joint county and municipal buildings and works.

(15) Any law relating to county libraries, except law libraries.

(16) Any law relating to the recording of deeds, mortgages or other instruments in writing.

(17) Any law relating to the clerk or clerks of the County Court of Allegheny County.

(18) Any law relating to the re-binding, re-indexing and transcribing of records in county offices.

(19) Any law relating to the fees of county officers.

(20) Any temporary law.

(21) Any amendment or supplement of any of the laws referred to in this section.

(22) Court criers and tipstaves, official court stenographers and interpreters and court room employes.

Section 104. Saving Clause.—(a) The provisions of this act, as far as they are the same as those of existing laws, shall be construed as a continuation of such laws and not as new enactments. The repeal by this act of any provisions of law shall not revive any law heretofore repealed or superseded, nor affect the existence or class of any county heretofore created. The provisions of this act shall not affect any act done, liability incurred or right accrued or vested, nor 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.

(b) All 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. All local acts of Assembly applying to the County of Allegheny not specifically repealed by this act shall continue in force and any provisions of this act inconsistent therewith shall not apply to said county.

(c) All acts and parts of acts of Assembly relating to counties or to particular classes of counties in force at the time of the adoption of this act and not repealed hereby shall remain in force in the same manner and with the same effect as prior to the adoption of this act.

Section 105. Holding of Office.—Any person holding elective office under any act of Assembly repealed by this act shall continue to hold such office until the expiration of the term thereof, subject to the conditions and salary attached to such office prior to the passage of this act.

Section 106. Construction of References.—Whenever in this act reference is made to any act by title or name, such reference shall also apply to and include any codifications wherein the provisions of the act referred to are substantially reenacted or to reenactments, revisions or amendments of the act.

Section 107. Constitutional Construction.—The provisions of this act shall be severable, and if any of its provisions are held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of this act. It is hereby declared as a legislative intent that this act would have been adopted by the General Assembly had such unconstitutional provisions not been included therein.

Section 108. Legislation According to Class.—The affairs of counties of the second class are herein and shall hereafter be legislated for and regulated by general laws applicable to said counties. All laws adopted by the General Assembly for counties of the second class shall be deemed to be general laws.

Section 109. Proceedings for Recovery of Penalties.—Unless herein otherwise specifically provided, in every case in which any pecuniary penalty or forfeiture is imposed by this act, the proceeding for the recovery of the same shall be by indictment in the court of quarter sessions or by civil action as debts of equivalent amount are by law recoverable. Aldermen or justices of the peace shall not have jurisdiction of any suit or action for the recovery of any penalty imposed by this act for official misconduct. Such suit or action, when brought in the court of common pleas, shall have preference for trial over all other actions.

Section 110. Publication of Legal 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 act, approved the sixteenth day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1784), known as the Newspaper Advertising Act, printed in the county, unless the matter in connection with which the advertising is being done affects only a political subdivision, in which case such advertisement shall be published in a newspaper printed in such political subdivision, if there is such a newspaper, and if not, then in a newspaper circulating generally in such political subdivision. 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 county. 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 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 advertise-

ment, unless such publication be dispensed with by special order of court. All ordinances, auditors' reports, controllers' reports, or advertisements inviting proposals for public contracts and for bids for materials and supplies, shall be published only in newspapers of general circulation, as hereinbefore defined.

## Article II

### Names and Corporate Powers

#### Classification of Counties

#### (a) Division of the State into Counties; Corporate Powers

Section 201. Enumeration of Counties.—The State shall be divided into the following sixty-seven named counties, as now established by law: Philadelphia, Bucks, Chester, Lancaster, York, Cumberland, Berks, Northampton, Bedford, Northumberland, Westmoreland, Washington, Fayette, Franklin, Montgomery, Dauphin, Luzerne, Huntingdon, Allegheny, Mifflin, Delaware, Lycoming, Somerset, Greene, Wayne, Adams, Centre, Beaver, Butler, Mercer, Crawford, Erie, Warren, Venango, Armstrong, Indiana, Jefferson, McKean, Clearfield, Potter, Tioga, Cambria, Bradford, Susquehanna, Schuylkill, Lehigh, Lebanon, Columbia, Union, Pike, Perry, Juniata, Monroe, Clarion, Clinton, Wyoming, Carbon, Elk, Blair, Sullivan, Forest, Lawrence, Fulton, Montour, Snyder, Cameron and Lackawanna.

Section 202. General Powers.—The county shall have capacity as a body corporate to:

(1) Have succession perpetually by its corporate name.

(2) Sue and be sued and complain and defend in all proper courts by the name of the county of .....

(3) Purchase, acquire by gift or otherwise, hold, lease, let and convey such real and personal property as shall be deemed to be for the best interests of the county.

(4) Make contracts for carrying into execution the laws relating to counties and for all lawful purposes.

(5) Have and use a seal which shall be in the custody of the commissioners thereof. The official acts of the commissioners shall be authenticated therewith. There shall be engraved upon such seal the same device as is engraved upon the great seal of the State, together with the name of the county.

(6) To make appropriations for any purpose authorized by this or any other act of the General Assembly.

Section 203. Vesting of Corporate Power.—The corporate power of the county shall be vested in a board of county commissioners.

**(b) Classification**

**Section 210. Counties Divided Into Eight Classes.—**For the purposes of legislation and the regulation of their affairs, counties of this Commonwealth, now in existence and those hereafter created, shall be divided into eight classes, as follows:

(1) **First Class Counties:** those having a population of 1,800,000 inhabitants and over.

(2) **Second Class Counties:** those having a population of 800,000 and more but less than 1,800,000 inhabitants.

(3) **Third Class Counties:** those having a population of 250,000 and more but less than 800,000 inhabitants.

(4) **Fourth Class Counties:** those having a population of 150,000 and more but less than 250,000 inhabitants.

(5) **Fifth Class Counties:** those having a population of 95,000 and more but less than 150,000 inhabitants.

(6) **Sixth Class Counties:** those having a population of 45,000 and more but less than 95,000 inhabitants.

(7) **Seventh Class Counties:** those having a population of 20,000 or more but less than 45,000 inhabitants.

(8) **Eighth Class Counties:** those having a population of less than 20,000 inhabitants.

**Section 211. Ascertainment, Certification and Effect of Change of Class.—**(a) The classification of counties shall be ascertained and fixed according to their population by reference, from time to time, to the last preceding decennial United States census, deducting therefrom the number of persons residing on any lands that have been ceded to the United States.

(b) Whenever it shall appear by any such census that any county has attained a population entitling it to an advance in classification, or that a county has heretofore or hereafter decreased in population so as to recede in classification, as herein prescribed, it shall be the duty of the Governor, under the great seal of this Commonwealth, to certify that fact accordingly to the board of county commissioners on or before the first day of October of the year succeeding that in which the census was taken, or as soon thereafter as may be, which certificate shall be forwarded by the commissioners to the recorder of deeds and be recorded in his office.

(c) Changes of class, ascertained and certified as aforesaid, shall become effective on the first day of January next following the year in which the change was so certified by the Governor to the county commissioners, but the salaries of county officers shall not thereby be increased or decreased during the term for which they shall have been elected. In the municipal election following such certification of change of class and preceding the effective date of such change, the proper number of persons shall be elected to fill any elective

office which will exist in the county by the change of classification certified. No election shall be held for any office which will be abolished as a result of such change of classification.

### Article III

#### Fixing and Relocating Lines and Boundaries

Section 301. Petition to Superior Court.—(a) The boundary line between any two adjoining counties may be determined, surveyed, relocated or marked in the manner provided by this article upon petition to the Superior Court.

(b) Such a proceeding shall be instituted on petition of any taxpayer, the county commissioners or the corporate authorities of any political subdivision of either of the counties involved.

Section 302. Superior Court to Designate Neutral Court; Appointment of Commission.—(a) The Superior Court, upon the filing of such petition, shall designate a court of quarter sessions of a county not affected by the question and not adjoining either of the counties involved to act in the proceeding. The court so designated shall sit in its home county.

(b) If it appears to the court so designated that the county line or any part thereof should be surveyed or marked, it shall appoint a commission composed of three surveyors or professional engineers in civil engineering to act for the court, as hereinafter provided.

Section 303. Compensation; Assistants and Expenses.—(a) The surveyors or professional engineers in civil engineering composing such commission shall each receive such compensation as the court shall fix for the time necessarily spent in the discharge of their duties and, in addition thereto, shall be reimbursed the necessary expenses incurred by them respectively while engaged upon the work of such commission.

(b) The commission may employ such assistants as the court shall allow, at a compensation to be fixed by the court, and such assistants shall be reimbursed the actual necessary expenses incurred by them respectively while employed by such commission.

(c) The necessary expenses of advertising the meeting of the commissioners, as hereinafter provided, and in procuring and setting the monuments needful to mark in a permanent manner such county line, the expenses of the commission and its assistants and all other expenses necessarily incurred, shall be paid by the interested counties jointly in equal parts, upon presentation of properly itemized bills duly verified by affidavit of the person claiming payment or some one on his behalf.

Section 304. Oath; Organization and Duties.—(a)

The members of the commission shall take and subscribe an oath to perform their duties impartially and with fidelity.

(b) The commission shall meet and organize within two weeks of its appointment. It shall select from its membership a chairman and also a secretary who shall keep a full record of the proceedings and work of the commission. Before entering upon its duties, it shall designate, by advertisement in not more than two newspapers published in each of said counties, a time and place of meeting when and where parties interested shall be heard. After such hearing it shall, without unreasonable delay, ascertain the location and survey and mark with suitable monuments of a permanent character the existing county line between such counties, if it shall consider such old county line a proper one.

Section 305. Authority to Fix New County Line.—

(a) When the commission has ascertained, located and determined said line, if it appears to it that the existing county line, from any cause whatever, has become inconvenient for any purpose, or improper, difficult to ascertain or not related to the natural or other land marks, the commission shall report these facts or any of them to the court of quarter sessions having appointed the commission, with a recommendation that a new county line be established in whole or in part.

(b) Thereupon, if said court shall be of opinion that it is to the interest and advantage of the respective counties that a new county line be established, they may direct said commission to fix and determine a new county line and to mark the same with suitable monuments of a permanent character.

(c) Notice shall be given to the counties interested and to the owners of all lands which will be affected by the proposed change of the time when the recommendation of the commission for a new county line will be considered by the court.

Section 306. Report of Commission; Approval by Court; Certification of Line.—(a) The commission or a majority thereof shall make a report in writing and attach thereto a map or draft showing the courses and distances of the line ascertained and designated by them as the existing county line, or where they may have been directed to fix and determine a new county line, such map or draft, in lieu thereof, shall show the courses and distances of such new county line. In either case, the map or draft shall also show the lands through which said line passes and the buildings in close proximity thereto, together with the roads and streams crossed by or near to such line.

(b) The report and map, signed by the members of the commission or a majority of them, shall be filed in the court of quarter sessions having been given jurisdiction, and if approved by such court, shall be ordered recorded in the records thereof. A copy of the report and approval shall be certified by the clerk of the court to the clerk of the court of quarter sessions of each county affected, where it shall be recorded in the records. The line so ascertained, surveyed and fixed and so marked shall thenceforth be the boundary line between the two counties.

(c) The clerk of the court of quarter sessions, having determined the matter, shall certify the approval of the court on two copies of the report and map filed in his office and, within thirty days, transmit a copy by mail to the Secretary of Internal Affairs, to be by him deposited in his department, and another to the Department of Highways.

#### Article IV

##### County Officers

###### (a) General Provisions

Section 401. Enumeration of Elected Officers.—(a) In the county there shall be the following officers elected by the qualified electors of the county:

- (1) three county commissioners;
- (2) one controller;
- (3) one treasurer;
- (4) one county surveyor;
- (5) one coroner;
- (6) one recorder of deeds;
- (7) one prothonotary;
- (8) one clerk of the court of quarter sessions and of the court of oyer and terminer;
- (9) one register of wills;
- (10) one sheriff;
- (11) one district attorney;
- (12) two jury commissioners.

(b) All such officers shall be elected at the municipal election next preceding the expiration of the terms of the officers now in office, and quadrennially thereafter, and shall hold their offices for a term of four years from the first Monday of January next after their election and until their successors shall be duly qualified, but in the event that any such officer so elected, excepting a county commissioner, shall fail to qualify, or if no successor shall be elected, then the officer then in office shall continue in office only until the first Monday of January following the next municipal election, at which time his successor shall be elected for a term of four years. In

the case of a county commissioner, there shall be a vacancy which shall be filled as provided in this act.

(c) All the county officers enumerated in this section shall remain as now constituted. This section does not create any office in the county where such office does not now exist.

Section 402. Incompatible Offices.—(a) No elected county officer shall at the same time serve as a member of the legislative body of any city, borough, town or township of any class, nor as school director of any school district, nor as a member of any board of health.

(b) No member of Congress from this State nor any person holding or exercising any office or appointment of trust or profit under the United States shall at the same time hold or exercise any county office in this State to which a salary, fee or perquisites are attached.

Section 403. Oath of Office.—(a) In addition to any oath or affirmation required by any other act of Assembly, all county officers, their deputies, assistants and clerks shall, before entering on the duties of their respective offices or employments, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, and that I will discharge the duties of my office (or employment) with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this Commonwealth, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office (or employment), other than the compensation allowed by law."

(b) The foregoing oath shall be administered by some person authorized to administer oaths, and shall be filed in the office of the prothonotary of the county in which the same is taken. Any person refusing to take said oath or affirmation shall forfeit his office. Any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this Commonwealth.

Section 404. Officers to Have Commissions Recorded.—Every county officer receiving a commission from the Governor shall immediately deliver the same to the

recorder of deeds for recordation, at the expense of such officer. No such officer shall execute any of the duties of his office until he has so delivered the said commission.

Section 405. Offices, Records and Papers to be Kept at County Seat.—(a) The commissioners, controller, treasurer, sheriff, recorder of deeds, prothonotary, clerk of courts of quarter sessions and oyer and terminer, clerk of the orphans' court, register of wills, recorder of deeds and district attorney shall keep their respective offices and all public records and papers belonging thereto at the county seat and in such buildings as may be erected or appropriated for such purpose.

(b) The county commissioners shall furnish each of such officers with an office in the county building, courthouse or other building at the county seat.

(c) Any person failing or refusing to maintain his office and to keep all public records and papers belonging thereto in the buildings appropriated for such purpose, in accordance with the provisions of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to undergo imprisonment until he complies with the provisions of this section, or until sooner discharged by order of the court, and to pay a fine not exceeding five hundred dollars, to be paid to the use of the county.

Section 406. Records Open to Inspection.—(a) The minute book and other fiscal records and documents of the county may be open to the inspection of any taxpayer thereof, but the proper officers may make reasonable rules and regulations respecting the time of such inspection.

(b) In case any officer shall refuse to permit the inspection of any fiscal record or document, the taxpayer may, by petition to the court of common pleas of the county, set forth his reasons for desiring to make such inspection, and if the court deems such reasons proper it shall order the officer to permit the inspection to be made.

Section 407. Officers to Secure Funds, Records, Books, Et Cetera, from Predecessors.—(a) Any person elected or appointed and duly commissioned to any county office shall demand and receive all records, books, drafts, plans, papers, seals or other official things, including all public funds, held in such office and not otherwise provided for by the act, approved the seventeenth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1403), known as the Municipal Unclaimed Moneys Act, belonging to such office, from the person or persons who held the office immediately before his election or appointment, or from any other person or persons holding or possessing them.

(b) Any person detaining from such a county office any records, books, drafts, plans, papers, seals or other official things, including public funds, as herein provided, belonging to such office, after reasonable demand therefor, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to undergo imprisonment until the delivery of any such official things found to be in his possession or control to the proper officer, or until sooner discharged by order of the court, and to pay a fine not exceeding five hundred dollars, to be paid to the use of the county.

Section 408. Deputies to Act in Certain Cases.—(a) Whenever any county officer is authorized or required to appoint a deputy or deputies, such deputy, or principal deputy where there are more than one, shall, during the necessary or temporary absence of his principal, perform all the duties of such principal, and also, in case of a vacancy, until a successor is qualified, except in the case of a vacancy in the office of sheriff, where the coroner shall act, as hereinafter provided, and except also in the case of a vacancy in the office of coroner, where the sheriff shall act, as hereinafter provided.

(b) No person temporarily succeeding to any county office by reason of the death or removal of the duly elected or appointed officer shall execute any of the duties of such office until he has first taken oath and filed the bond required of the principal officer.

Section 409. Vacancies Not Otherwise Provided For.—In case of a vacancy happening by death, resignation or otherwise in any county office created by the Constitution or laws of this Commonwealth, and where no other provision is made by the Constitution or by the provisions of this act to fill the vacancy, it shall be the duty of the Governor to appoint a suitable person to fill such office, who shall continue therein and discharge the duties thereof until the first Monday of January next succeeding the first municipal election \* which shall occur two or more months after the happening of such vacancy. Such appointee shall be confirmed by the Senate if in session.

Section 410. County Officials to Furnish Information to Heads of the Governmental Departments.—(a) It shall be the duty of all county officers to furnish, on application thereof, to the head of any department of the State government, such information and copies of such records or documents contained in their respective offices as in the opinion of such head of department may be necessary or pertinent to the work of his respective department. The county so furnishing information shall receive for copying and forwarding the same such reasonable compensation as the Auditor General may determine. Such

\* "at" deleted from original.

compensation shall be paid to the county by the State Treasurer out of moneys not otherwise appropriated, upon warrant from the Auditor General.

(b) All county officers shall also furnish to the Department of Internal Affairs such information as may be requested by it.

Section 411. Penalty for Neglect or Refusal to Perform Duties.—If any county officer neglects or refuses to perform any duty imposed on him by the provisions of this act or by the provisions of any other act of Assembly or by any rule of court or other provision of law, he shall, for each such neglect or refusal, be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500).

Section 412. Absconding Officers.—The office of any county officer absconding from the county shall be vacant to all intents and purposes.

#### (b) Official Bonds

Section 420. Official Bonds; Requirements.—Each of the following officers, before entering upon his official duties, whether he is elected, appointed or appointed to fill a vacancy, shall give and acknowledge a bond to the county:

- (1) Each county commissioner;
- (2) The chief clerk of the county commissioners;
- (3) The controller;
- (4) The county treasurer;
- (5) The prothonotary;
- (6) The sheriff;
- (7) The coroner;
- (8) The clerk of the court of quarter sessions and oyer and terminer;
- (9) The clerk of the orphans' court;
- (10) The recorder of deeds; and
- (11) The probation and parole officers required by order of court to give bond to the county.

Every such official bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of the Commonwealth.

Section 421. General Conditions; Commissioners; Treasurer.—(a) Each official bond shall be conditioned upon the faithful discharge by the county officer, his deputies, clerks, assistants and appointees, of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over according to law of all moneys and all balances

thereof paid to, received or held by him by virtue of his office, and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

(b) The bonds of the county commissioners shall be further conditioned upon the faithful and legal appropriation of county and other moneys in the county treasury, upon checks and orders given by them or subject to their control.

(c) The bond of the county treasurer shall be further conditioned upon a just account of all moneys that may come into his hands on behalf of any political subdivision within the county or on behalf of any person, and for the payment to his successor of any balances of such moneys remaining in his hands.

Section 422. Obligees Suits on Bonds.—(a) Each official bond shall be taken in the name of the county, and shall be for the use of the county and the Commonwealth and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

(b) The county, the Commonwealth or any other person may sue upon the said bond in its or his own name for its or his own use. Acts of Assembly pertaining to actions and limitations of actions upon official bonds given to the Commonwealth shall apply to the bonds provided for in this subdivision just as if they were given to the Commonwealth, except as otherwise specifically provided herein.

Section 423. Approval, Substitution or Addition of Surety.—(a) Each official bond shall contain the name or names of the surety company or companies bound thereon, and shall be subject to the approval of the court of common pleas, which court may require such proofs as to it appear necessary or proper in connection with such bonds.

(b) The court may at any time, upon cause shown and due notice to the county officer and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to the court for the purpose of making the bond sufficient in amount, as required by law, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.

Section 424. Custodians of Official Bonds.—The county controller shall be custodian of all official bonds, except that of his own office which shall be held by the county commissioners.

Section 425. Acknowledgment; Evidence.—Official bonds shall be acknowledged before the recorder of deeds, except that the latter officer shall acknowledge his bond before the prothonotary. A copy of any official bond, certified as true and correct by the proper officer custodian thereof, shall be competent evidence thereof in any judicial proceeding.

Section 426. Amounts of Official Bonds; Exclusive Provisions.—(a) Except as otherwise specifically provided by law, the amounts of official bonds shall be determined by the salary board.

(b) Except as otherwise specifically provided by law, this subdivision shall be deemed to contain the exclusive provisions for official bonds of county officers.

(c) The provisions of this subdivision shall not apply to bonds required to be given to the Commonwealth by county officers acting as agents of the Commonwealth.

Section 427. Premiums of Official Bonds.—The premiums of all official bonds, including the bond of the register of wills, shall be paid by the county out of the county treasury.

Section 428. Bonds of Deputies and Other Appointees.—Bonds required to be given by the deputies and appointees of county officers shall be paid for by the county, and the amounts thereof shall be designated by the salary board. No appointee of a county officer shall be required to give bond unless in a position where he may be handling money, or in a position where, in the performance of his duties, an act of his may cause loss to the county or to any person. The salary board shall determine each position for which the requirement of a bond may be justified, as aforesaid, and shall designate the amount thereof. The salary board shall in each case be constituted the same as if it were fixing the salary of the appointee concerned.

Section 429. Bond of Register of Wills.—(a) The register of wills, before entering upon the duties of his office, shall, with one corporate surety or two individual sureties, on a form prepared and supplied by the Secretary of the Commonwealth, give a joint and several bond to the Commonwealth of Pennsylvania in the sum of thirty thousand dollars (\$30,000).

(b) The condition of the bond shall be that the register of wills shall faithfully execute the duties of his office, and well and truly account for and pay, according to law, all moneys received by him for the use of the Commonwealth or for the use of others by virtue of his office, and to deliver up the books, seals, records, writings and other official things belonging to his office, whole, safe and undefaced to his successor in office.

(c) Such bond shall be for the use of all persons concerned and for the relief of all who may be aggrieved by the acts or neglect of such register.

(d) Such bond shall be submitted to the Secretary of the Commonwealth for approval, and when he approves the same, he shall forward the bond, together with the commission of the register, to the recorder of deeds of the county and so notify the register, who shall cause the bond to be recorded in the office of the recorder of deeds. After recording the bond, the recorder of deeds shall deliver to the register his commission and forward the bond to the Secretary of the Commonwealth for filing.

(e) The bond required by this section shall be the official bond of the register of wills in lieu of the official bonds required by this subdivision for other county officers.

Section 430. Form of Bond of Sheriff.—The form of the bond to be given by the sheriff and his sureties shall be as follows, to wit: “Know all men by these presents that we (A. B., C. D. and E. F.) are held firmly bound unto the County of ..... in the sum of ..... dollars to be paid to the said County or to the Commonwealth for the uses, intents and purposes declared and appointed by law, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, dated ..... day of ....., Anno Domini ..... The conditions of the above obligation are such that, if the said (A. B.) shall and do, without delay, according to law, well and truly serve and execute all writs and process of the Commonwealth of Pennsylvania to him directed, and shall and do, from time to time, upon request to him for that purpose made, well and truly pay or cause to be paid to the several suitors and parties interested in the execution of such writs or process, their lawful attorney, factors, agents or assigns, all and every sum and sums of money to them respectively belonging, which shall come to his hands, and shall and do, from time to time, and at all times during his continuance in the said office, well and faithfully execute and perform all and every of the trusts and duties to the said office appertaining, then this obligation to be void, or else to be and remain in full force and virtue.”

Section 431. Amount of Official Bonds.—The amount of the bond to be given by county officers shall be as follows:

Of the clerk of the courts of oyer and terminer and general jail delivery and courts of quarter sessions of the peace, ten thousand dollars.

Of the county commissioners, ten thousand dollars each.

Of the county controller, fifty thousand dollars.

Of the coroner, fifteen thousand dollars.

Of the register of wills, thirty thousand dollars.

Of the prothonotary, forty thousand dollars.

Of the recorder of deeds, twenty thousand dollars.

Of the sheriff, sixty thousand dollars.

Of the county treasurer, two hundred thousand dollars.

#### (c) State Associations

Section 432. State Associations Authorized.—County officers of the county may join with county officers of other counties of the Commonwealth and organize a State association, as follows:

(1) The county commissioners, together with the county solicitor and the chief clerk to the county commissioners;

(2) The county controllers;

(3) The sheriffs;

(4) The district attorneys;

(5) The probation officers;

(6) The registers of wills;

(7) The prothonotaries and clerks of courts of quarter sessions;

(8) The county treasurers;

(9) The recorders of deeds;

(10) The directors of veterans' affairs.

Section 433. Purpose; Annual Meetings.—(a) The purpose of the respective State associations shall be to discuss and resolve the various questions arising in the discharge of the duties and functions of the respective officers, and to provide uniform, efficient and economical methods of administering the affairs of the counties pertaining to their offices.

(b) In order to achieve such purposes by cooperation, coordination and full exchange of information, each State association is authorized to hold an annual meeting, at such time and place within the Commonwealth as it may designate.

(c) Both the association of county controllers and the association of county treasurers may meet in joint session with the association of county commissioners, solicitors and chief clerks, if such associations mutually so agree, but in any case, each association shall have a separate session on at least two days of the annual meeting.

Section 434. Deputies or Solicitors May Attend Annual Meetings.—The deputy controller, the solicitor to the controller, the deputy sheriff or solicitor to the sheriff,

the deputy register of wills or \*solicitor to the register of wills and the deputy treasurer may attend the annual meetings of his respective associations, either together with the controller, sheriff, register of wills or treasurer, as the case may be, or in his place.

Section 435. Expenses of Attending; Members to be Paid by County; Time Limit on Meetings.—(a) The actual reasonable expenses of all county officers authorized to attend the annual meetings of their associations, including hotel bills, shall be paid by the county out of general county funds. Such expense shall not exceed twenty dollars per day, together with eight cents per mile in going to, attending and returning from such meeting.

(b) The annual meeting of the association of county commissioners, county solicitors and chief clerks shall not exceed four days, that of the district attorneys shall not exceed two days, and those of all other State associations shall not exceed three days, in every case, exclusive of the time spent in traveling to and from the said meetings.

Section 436. Other Meeting Expenses Paid by County.—(a) In addition to the expenses hereinbefore authorized, the necessary expenses of the annual meetings of the associations hereinafter named, including printing, committee expenses and stenographical expense shall be paid in equal parts by the counties whose officers are members of the respective associations.

(b) In the case of the county controllers, the sheriffs and the registers of wills, the portion of the annual expenses charged to each county shall not exceed seventy-five dollars (\$75); in the case of the county commissioners, county \*\*solicitor and chief clerk, the portion of the annual expenses charged to each county shall not exceed sixty-two dollars and fifty cents (\$62.50); and in the case of the prothonotaries and clerks of courts of quarter sessions, the county treasurers, the recorders of deeds and the directors of veterans' affairs, the portion of the annual expenses charged to each county shall not exceed thirty-one dollars and twenty-five cents (\$31.25); and in the case of the probation officers, an annual membership subscription not exceeding six dollars and twenty-five cents (\$6.25) per member shall be paid by the county, and shall be in lieu of the expenses hereinbefore in this section provided for other county officers.

Section 437. Annual Assessments for County Commissioners, Etc.—(a) In addition to the expenses hereinbefore authorized, the necessary expenses of the association of county commissioners, county solicitors and chief clerks shall be apportioned among the counties hold-

\* "solicitors" in original.

\*\* "solicitor" in original.

ing membership in the association in amounts provided for by the rules and regulations of the association, but shall not total more than three hundred fifty dollars (\$350) for counties of the second class.

(b) Such annual apportionments of expenses shall be as approved at each annual convention of the said association by a majority vote of the members present, and when so approved shall be paid from general county funds.

(d) Removal of County Officers

Section 450. Removal of County Officers and Appointees.—(a) The county commissioners, the sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, treasurers, surveyors, controllers, clerks of the courts, district attorneys, and any other officers of the county, whether elected or duly appointed to fill a vacancy, shall be removable from office only by impeachment, or by the Governor, for reasonable cause, after due notice and full hearing, on the advice of two-thirds of the Senate, or upon conviction of misbehavior in office or of any infamous crime, in accordance with the Constitution of this Commonwealth, but their title to office may be tried by proceedings of quo warranto as provided by law.

(b) Appointees to county offices or positions other than to elected offices shall be subject to removal at the pleasure of the appointing power, except as otherwise expressly provided by law, and they shall also be removed on conviction of misbehavior in office or of any infamous crime.

(e) Conduct of Official Business

Section 460. Meetings Open to Public.—(a) All meetings, regular and special, of the board of county commissioners and of all boards, commissions and authorities, created by or operating as agencies of the county, are hereby declared to be public meetings, open to the public at all times.

(b) Nothing contained in this section shall prevent the county commissioners or any such board, commission or authority from holding executive sessions from which the public is excluded, but no final official action shall be taken as to any proposed or existing resolution, ordinance, rule or regulation, or part thereof, at such an executive session.

(f) Destruction of Valueless Records

Section 470. Authority to Destroy Valueless Records; Approval of Courts.—(a) Whenever any officer of the county shall have an accumulation of records or other papers in his office which such officer shall deem

valueless, he may destroy and dispose of the same, provided he shall have first obtained the approval of the court of common pleas, or of the orphans' court of the county in the case of the office of register of wills or clerk of the orphans' court.

(b) In any such case, the court of common pleas or the orphans' court, as the case may be, may prescribe such conditions, including the duty on such officer and the county commissioners to have copied and replaced any such records or papers by such mechanical process as is authorized by law, as such court shall deem advisable.

(c) The provisions of this section shall not apply to the recorder of deeds of the county, except as to written instruments, documents or papers lodged for record and recorded and which were thereupon returnable to the persons entitled thereto, when such persons have failed to call for the same after a period of one year from the time they were ready for delivery and return.

Section 471. Destruction of Retired Public Bonds and Insurance Policies.—The county commissioners are hereby authorized and empowered to destroy by incineration, under the terms and conditions hereinafter provided, retired public bonds and coupons, whether serial or otherwise, and expired insurance policies on county property.

Section 472. Petition to Common Pleas for Order for Destruction.—(a) Bonds of the county which have heretofore matured or may hereafter mature and all coupons pertaining to the same, upon redemption by the treasurer of the county, and all expired insurance policies on county property, both real and personal, which have been expired for a period of not less than six years, may be destroyed by incineration at a place to be designated by the county commissioners. Before the destruction of any such public records, there shall first be filed a petition in the court of common pleas of the county, by either the county commissioners, the county controller or the county treasurer, or by all of them jointly, setting forth full and detailed information about the numbers, valuations and maturity dates of the bonds so to be destroyed, and full and detailed information in regard to the insurance policies, including the date of issuance, the name of the risk, the amount of the coverage, the date of expiration, and the disposition of any claim made in regard to said policy or policies so to be destroyed.

(b) In case of the failure or refusal of either the county commissioners, the county controller or the county treasurer to join in the prayer of the said petition, the court shall make a preliminary order upon those officers failing or refusing to sign said petition to show cause why such destructions should not be effected, said rule to be returnable in ten days.

(c) After a hearing thereon, the court of common pleas of the county shall make such order as it may deem advisable and proper under the facts. After an order for said destruction of said public records, if the court of common pleas grants the prayer of the petition for the said destruction of said bonds and coupons and insurance policies, the county commissioners shall, at an appointed place designated by them, at a period not less than sixty days from the date of said order, publicly destroy said records, and the county controller shall make a minute in his office of such records destroyed.

## Article V

### County Commissioners and Chief Clerk

#### (a) Commissioners

Section 501. Election; Vacancies.—(a) Three county commissioners shall be elected in the county in the year one thousand nine hundred and fifty-five and every fourth year thereafter. In the election of commissioners, each qualified elector shall vote for no more than two persons. The three persons having the highest number of votes shall be elected.

(b) Any vacancy in the office of county commissioners shall be filled for the balance of the unexpired term by the court of common pleas of the county, by the appointment of an elector of the county who voted for the commissioner whose place is to be filled.

Section 502. Organization.—The county commissioners shall meet on the first Monday of January in the year one thousand nine hundred and fifty-six and on the first Monday of January every fourth year thereafter, in the office provided for them at the county seat, for the purpose of organization.

Section 503. Quorum; Execution of Official Instruments.—(a) The commissioners shall constitute a board, two members of which shall be a quorum for the transaction of business, and when convened in pursuance of notice or according to adjournment shall be competent to perform all the duties appertaining to the office of county commissioners.

(b) Where any official document, instrument or official paper is to be executed by the county commissioners, it shall be done by at least two of the commissioners and attested by the chief clerk who shall affix the county seal thereto.

Section 504. Certified Copies of Proceedings to be Evidence.—Copies of the proceedings of the commissioners and of all records in their possession, certified by their chief clerk under the county seal, shall be admitted in evidence in any of the courts of this Commonwealth.

Section 505. Power to Administer Oaths.—The commissioners shall respectively have power to administer oaths and affirmations in all cases arising in the performance of the duties of their office.

Section 506. Expenses.—The county commissioners shall be allowed their expenses necessarily incurred and actually paid in the discharge of their official duties or in the performance of any service, office or duty imposed upon county commissioners.

Section 507. Office Furniture, Stationery, Etc.—(a) The county commissioners, at the cost of the county, shall purchase and provide the office furniture, equipment and supplies, blank books, blanks, dockets, books for records, stationery, postage, fuel, light and janitor and telephone service required for each of the county officers whose offices are located in the county buildings or at such other places at the county seat as may be designated by the commissioners, and all supplies used by the public in connection with such offices.

(b) The county commissioners, at the cost of the county, shall purchase and provide all of the same items as needed for each of the county officers whose offices are not required by law to be kept and maintained in county buildings or at the county seat.

Section 508. Ordinances and Resolutions.—(a) The board of commissioners may adopt resolutions and ordinances prescribing the manner in which powers of the county shall be carried out and generally regulating the affairs of the county.

(b) All such ordinances, unless otherwise provided by law, shall be published at least once in one newspaper of general circulation in the county. Such ordinances shall not become effective until ten days after the publication aforesaid. In any case in which maps, plans or drawings of any kind are adopted as part of an ordinance, the commissioners may, instead of publishing the same as part of the ordinance, refer, in publishing the ordinance, to the place where such maps, plans or drawings are on file and may be examined.

(c) The board of county commissioners may also prescribe fines and penalties, not exceeding five hundred dollars (\$500), for the violation of county ordinances, which fines and penalties may be collected by suit brought in the name of the county in like manner as debts of like amount may be sued for.

Section 509. Take Money and Property By Gift, etc.—The county commissioners may take by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of the county, and the care and management, investment, sale, reinvestment and disposal of such trust funds or property shall be vested in the sinking fund commission and shall be

governed thereby, subject to such direction as the donors of such funds and property may prescribe.

(b) Chief Clerk of County Commissioners

Section 520. Chief Clerk.—The county commissioners shall appoint a chief clerk.

Section 521. Duties and Powers of Chief Clerk.—(a) The chief clerk shall keep the books and accounts of the board of county commissioners, record and file their proceedings and papers, attest all orders and warrants issued by them, and perform all other duties pertaining to his office as chief clerk.

(b) He shall have general power to administer oaths and affirmations pertaining to the business of the office of the county commissioners.

## Article VI

### Controller

Section 601. Election and Term; Seal.—(a) At the municipal election immediately preceding the expiration of the term of the controller now in office and quadrennially thereafter, the qualified electors of the county shall elect one citizen of the county, who shall serve as controller for the term of four years from the first Monday of January following his election or until his successor shall be qualified, if he so long shall behave himself well.

(b) The county controller shall be provided with an official seal of his office by the county commissioners of the county which shall be used for the attestation of all official papers.

Section 602. Eligibility.—(a) No person holding office under the United States shall be eligible to the office of county controller during his continuance in such office nor until one year thereafter.

(b) The county commissioners, county treasurer, prothonotary, register of wills, clerk of the courts, recorder of deeds, sheriff and \*district attorney and their chief clerks or deputies shall be ineligible, during their continuance in such office and for two years thereafter, to the office of county controller.

(c) The controller shall always be eligible to re-election or appointment.

Section 603. Deputy Controller and Clerks.—The controller shall appoint a deputy controller and clerks, and may authorize one or more of the clerks employed in his office to administer to all persons oaths and affirmations pertaining to the business of the office, with the same force and effect as if administered by the controller or deputy controller.

\* "districts" in original.

Section 604. Solicitor to the Controller.—The county controller may designate and appoint one person learned in the law to act as his solicitor. Such solicitor shall advise upon all such legal matters as may be submitted to him and shall conduct any litigation desired by the county controller. He shall hold office at the pleasure of the controller. He shall receive such salary as may be fixed by the salary board.

Section 605. Expenses.—The county controller and his deputy clerks and employees shall be allowed their expenses necessarily incurred and actually paid in the discharge of their official duties or in the performance of any service or duty imposed upon them.

## Article VII

### Lot and Block System

Section 701. County Commissioners to Establish.—The county commissioners are hereby empowered to establish, in the office of the county controller, the lot and block system for the registration of land titles, for the accumulation of county tax liens, and for the enumeration of the parcels of real estate to be assessed for county, city, borough, township, school and institution district taxation.

Section 702. Systems Which may be Adopted.—In establishing the said lot and block system, the commissioners may adopt any system covered by such designation, now in use either in municipalities in the Commonwealth or in use in the municipalities in other states, or a combination of such systems, as they shall deem proper, in order to supply the needs of said county.

Section 703. Cost and Expense.—For the purpose of defraying the cost and expense of establishing said lot and block system, the commissioners may use current tax revenue or may issue general obligation bonds in such amounts as are necessary and in such manner as provided by the Municipal Borrowing Law.

Section 704. Part of System Transferred to Deed Registry Office, Part Maintained in Office of Controller.—When installation of the lot and block system has been completed, the division of said system having custody of the plats and plat books and the upkeep of the same shall be transferred to the deed registry office of said county, and the files, cards, indexes and records relating to the liening of county taxes shall remain in and be maintained by the office of the controller of said county. The deed registrar and the controller of the county are hereby charged with and required to operate and maintain the several portions of the lot and block system placed in their custody, as herein provided.

Section 705. Putting System into Effect.—Where the commissioners have established the lot and block system in the office of the county controller, and where the county controller has certified to the commissioners that said system has been completely installed in either the whole of the county or completely installed in one or more municipal subdivisions thereof, then the commissioners shall proceed to put said system into effect in the manner hereinafter set forth.

Section 706. Petition to Common Pleas; Determination; Order.—Immediately upon the receipt of the certification of completion from the county controller, the commissioners shall present their petition to the Court of Common Pleas, setting forth the establishment of such lot and block system, the fact of its completion, either in the county as a whole or within one or more municipal subdivisions, and a brief statement describing the method of operation of the lot and block system so established. If the court shall determine that the said system has been established in accordance with the provisions of this article and has been completed, it shall make an order placing the same in effect as of the first Monday of January next succeeding such order.

Section 707. Effect of Order: Correction of Assessments; Recording Instruments; Tax Bills; Liens; Tax Sales.—The effect of the order of the Court of Common Pleas shall be as follows:

(a) The district assessors appointed by the Board of Property Assessment, Appeals and Review, whose assessments are being made within the municipal subdivisions that have had the lot and block system completed therein, shall immediately proceed to correct their original books of assessment by adding thereto the lot and block system descriptive numbers.

(b) The Board of Property Assessment, Appeals and Review shall, as to assessments already in its hands, which assessments are within municipal subdivisions covered by said order or orders of court, correct such assessments by adding thereto the lot and block system descriptive numbers.

(c) The recorder of deeds shall receive for recording any deed that shall refer to a specific parcel of real estate, whether or not said deed shall bear the certification by the custodian of the lot and block system that the lot and block system descriptive numbers incorporated in the description of the real estate described therein are correct, but before transcribing any such deed lacking the certification, he shall obtain the same from the custodian of the lot and block system.

(d) The treasurer or tax collector of each city, borough, town, township or school district, where the

lot and block system has been completed under the order of court, shall place upon each tax bill sent out, and upon each tax receipt issued upon payment, the lot and block system descriptive numbers.

(e) The county controller, in the case of the county, and the treasurer, tax collector or solicitor, as the case may be, in each city, borough, township or school district, within which the lot and block system has been completed, shall, at the time of filing liens for unpaid taxes with the prothonotary, set forth on such liens the individual lot and block system descriptive numbers, and the prothonotary shall not receive and file such liens unless the said descriptive numbers are contained thereon.

(f) For the purposes of the sale of real estate for delinquent taxes, either by the sheriff of the county or by the commissioners and treasurer of the county, or by the treasurer of any city, the lot and block system descriptive numbers are hereby declared to be sufficient description for the advertising preceding such sale, for the oral description read at such sale prior to receiving bids, and for the purposes of the description to be inserted in any tax deed to be given to the purchaser at such sale.

## Article VIII

### Treasurer

Section 801. County Treasurer; Eligibility.—No judge, clerk or prothonotary of any court, register of wills, recorder of deeds, county commissioner or county controller shall be eligible to serve as county treasurer during their continuance in office. No county treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Section 802. Bond in Favor of Commonwealth.—The county treasurer shall, before entering upon the duties of his office, give bond with sufficient security, to be approved of by at least two of the judges of the court of quarter sessions in the county, and in such penalty as the said judges shall deem sufficient, conditioned for the faithful discharge of all duties enjoined upon him by law in behalf of the Commonwealth, and for the payment, according to law, of all moneys received by him for the use of the Commonwealth, which bond shall be taken by and acknowledged before the recorder of deeds of the county and recorded in his office; and the original bond shall be forthwith transmitted to the Auditor General. The cost of the bond, its acknowledgment and recording shall be borne by the Commonwealth.

Copies of the record of such bond, duly certified by the recorder of deeds, for the time being, shall be good

evidence in any action brought against such treasurer or his sureties on such bond according to its form and effect, in the same manner as the original would be if produced and offered in evidence.

Section 803. Removal from Office for Failure to Transmit Bond to Auditor General.—If the county treasurer shall fail to transmit to the Auditor General, within one month after his election or appointment, the bond required by the preceding section, he shall be deemed to have forfeited his right to the office; if he has entered upon the duties thereof, he shall be ousted in an action of quo warranto in the name of the Commonwealth, upon the relation of the Attorney General, or of the district attorney of the county if the latter is so directed by the county commissioners.

Section 804. When Auditor General to Deliver Up Bond of Treasurer.—The bond and obligation of the county treasurer shall be held by the Auditor General for one year after the settlement of his accounts with the Commonwealth; and thereafter, if the Auditor General and State Treasurer are fully satisfied that the county treasurer has settled his accounts and paid all sums due the Commonwealth, said bond and obligation shall, upon request, be delivered to any person entitled to the same.

Section 805. Misapplication of Funds Collected for Specific Purposes.—Whenever any moneys are collected by law in any county for any special purpose and paid into the hands of the treasurer of the county, it shall be unlawful for such treasurer to apply such moneys or any part thereof to any other purpose than that for which such moneys were collected. Every such misapplication shall be a misdemeanor, upon conviction whereof the treasurer shall be punished by a fine of not less than the amount so misapplied and by imprisonment for not less than three months nor more than one year.

Section 806. Deputy Treasurer.—The county treasurer is hereby authorized to appoint a deputy county treasurer who shall perform such duties as shall be prescribed by the county treasurer.

## Article IX

### County Solicitor

Section 901. Appointment; Qualifications. — The county commissioners shall appoint a county solicitor, who shall be an attorney-at-law admitted to practice in the courts of this Commonwealth. He shall, before entering upon the duties of his office, file with the county commissioners an agreement to pay all fees, attorney's fees and commissions received from every source as county solicitor into the county treasury.

Section 902. Duties.—He shall commence and prosecute all suits brought or to be brought by the county wherein or whereby any rights, privileges, properties, claims or demands of the county are involved, as well as defend all actions or suits brought against the county, and shall perform all duties now enjoined by law upon county solicitors, and shall do all and every professional act and render legal advice incident to the office, which may be required of him by the commissioners.

Section 903. Employes.—The county solicitor may, with the approval of the county commissioners, appoint such clerks and stenographers as may be necessary in the discharge of his duties.

Section 904. Assistant Solicitors.—The county solicitor may, with the consent of the county commissioners, appoint, to assist him in the discharge of the duties of his office, assistant county solicitors and special counsel, who shall be attorneys-at-law admitted to practice in the courts of this Commonwealth. Each assistant and special counsel shall perform such duties in connection with the legal affairs of the county as may be assigned to him by the county commissioners or the county solicitor.

## Article X

### Surveyor and Engineer

Section 1001. County Surveyor; Qualifications; Duties and Compensation; Vacancies.—The county surveyor, to be elected as hereinbefore provided, shall be a practical surveyor, and shall perform all the duties assigned to him by the county commissioners or by law.

Any vacancy occasioned by death, resignation, removal or otherwise shall be filled by the court of quarter sessions by the appointment of a competent person being a practical surveyor, to fill such vacancy during the balance of the unexpired term.

Section 1002. County Engineer; Appointment; Term.—The county commissioners of the county may appoint a professional engineer in civil engineering who shall be styled the county engineer. Such engineer shall serve at the pleasure of the commissioners.

Section 1003. Duties.—The county engineer shall prepare plans, specifications and estimates of all engineering work undertaken by the county, and whenever required shall furnish the commissioners with reports, information or estimates on any such work, and, in general, shall perform all such duties with reference to any county engineering work as the county commissioners may from time to time prescribe.

## Article XI

## Board of Viewers

Section 1101. Number of Members; Qualifications.—There is hereby established in the county a board of viewers. The board of viewers shall consist of not less than six nor more than nine members, one-third of whom may be learned in the law and members of the bar of the county. The judges of the court of common pleas shall in each case determine, within the aforesaid limits, the total number of members of which the board shall be composed, fixing and determining such \*number as shall be deemed necessary for the proper performance of the duties imposed upon the board. The court may also, from time to time, change the total number of members within the above limits.

Section 1102. Qualifications.—Each member of the board of viewers must be at least 25 years of age, a freeholder and a qualified elector of the county, and not engaged in any public employment of profit. The office of any member of the board shall be vacant immediately upon his ceasing to be a resident of the county in which he was appointed, or upon his ceasing to possess any of the qualifications above required. The court of common pleas shall, from time to time, determine summarily any facts thus bringing about a vacancy in the office.

Section 1103. Appointment of Members; Vacancies; Rules and Regulations.—The members of the board of viewers shall be appointed by the judges of the court of common pleas. All vacancies happening from any cause shall be filled by appointment by the judges of the court of common pleas.

The court of common pleas of the county shall make such rules and regulations for the government of said board and the proceedings thereof as they respectively shall deem proper, which rules and regulations said court may from time to time alter, amend, modify or rescind.

Section 1104. Term of Office; Removal.—Each of the members of the board of viewers shall be appointed for a term of three years from the date of his appointment, whether such appointment be to fill an original or partly expired term. Members may be reappointed from time to time when vacancies occur. All appointments shall be subject to the power of the court of common pleas, at its pleasure, to remove members of said board before the expiration of their respective term of office and to appoint successors.

Section 1105. Power to Administer Oaths.—Any member of any board of viewers shall have general power to administer oaths and affirmations to other

\* "member" in original.

viewers of the same county, to witnesses before them and to other persons, pertaining to the business and duties of the board of viewers.

Section 1106. Clerks and Stenographers.—The board of viewers may employ such stenographers and clerical assistants as shall be authorized by the salary board.

## Article XII

### Sheriff and Coroner

#### (a) Sheriff

Section 1201. Unfinished Business of Outgoing Sheriff.—(a) It shall be the duty of every outgoing sheriff to deliver all unfinished and unexecuted writs and process whatsoever to his successor, whose duty it shall be to receive and execute the same as if said writs and process had been originally issued and directed to him, and to carry out and complete all other official duties of his predecessor.

(b) Whenever any real estate shall be sold under any execution by a sheriff who shall in any lawful manner be succeeded in office before any deed shall be executed and acknowledged by him in due form of law for such real estate, his successor in office shall have the same power and be under the same duty to execute and acknowledge a deed for such real estate to the purchaser thereof as the sheriff selling such real estate under execution if he were still in office, which deed so executed shall be as effectual in law as if the title had been completed by the former sheriff.

(c) No court order shall be necessary in any event to authorize an incoming sheriff to carry out his duties as prescribed by this act.

Section 1202. Sheriff May Act by Deputy.—Whenever the sheriff is or shall be required by law to act in person under or by virtue of any writ or process whatsoever issued by the courts of this Commonwealth, he may act either in person or by a regularly appointed deputy sheriff.

Section 1203. Chief Deputy.—The sheriff of the county shall appoint, by commission duly recorded in the office for recording deeds, a chief deputy, whose appointment shall be revocable by the sheriff at pleasure on recording in said office a signed revocation thereof. The chief deputy, during his continuance in office, shall have full power and authority to perform any duty incumbent upon such sheriff with like effect in law as if such official act had been done by the sheriff in person, regardless of the ability or temporary disability of such sheriff to act while such sheriff continues in office. Nothing in this section shall operate to relieve such sheriff or his sureties from liability upon their official bond.

Section 1204. Real Estate Deputy.—The sheriff may have a real estate deputy to take charge of all matters relating to sheriff's sales of real estate and distributions of the proceeds thereof, whose appointment shall be made and be revocable, as hereinbefore provided for the chief deputy. Such deputy shall have full power to perform all duties incumbent upon the sheriff, in like manner as his chief deputy, with like effect in law as if such official acts had been done by the sheriff in person. Such duties shall include the execution and acknowledgment of sheriff's deeds for real estate upon receipt of the purchase price thereof. Nothing in this act shall operate to relieve the sheriff or his sureties from liability upon their official bonds, but such liability shall continue as heretofore.

Section 1205. Deputies and Clerks.—The sheriff of the county may appoint such deputies and clerks as may be necessary to properly transact the business of his office. He may revoke the appointment of deputies in the same manner as his chief deputy.

Section 1206. Deputy Sheriffs; Qualifications.—A sheriff shall not appoint any person a chief deputy or any other deputy sheriff unless the sheriff files with the prothonotary, prior to the appointment of such person, the name and photograph of such person, together with an affidavit of such person setting forth the following:

- (1) His full name, age and residence address;
- (2) That he is a citizen of the United States and twenty-one years of age or over;
- (3) That he has resided in the county for a period of at least two years immediately preceding the filing of such affidavit;
- (4) That he has never been convicted of a crime involving moral turpitude under the laws of this Commonwealth or of any other state or of the United States;
- (5) That he has not, for a period of two years immediately preceding the filing of such affidavit, acted either for himself or as the agent or employe of another in any labor dispute, or hired himself out or performed any service as a private detective, private policeman or private guard in any labor dispute, or received any fee or compensation whatsoever for acting as a private detective, private policeman or private guard in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in this Commonwealth in connection with any labor dispute.

Section 1207. False Statements in Deputy's Affidavit.—Any false statement contained in any such affidavit shall constitute perjury and shall be punishable as such.

Section 1208. Filed Items Public Records.—The name, photograph and affidavit of any such person so filed with the prothonotary shall constitute a public record.

Section 1209. Public List of Applicants for Deputy Sheriff.—The sheriff shall, from time to time, prepare a list of the names of all persons who have applied for appointment as deputy sheriff and who meet the qualifications hereinbefore prescribed. Such list shall be posted in a public place for a period of not less than ten days, and thereafter shall be filed in the office of the prothonotary. No deputies shall be appointed by the sheriff whose names do not appear on said list.

Section 1210. Private Services, Gifts and Payments; Contracts Prohibited.—(a) No sheriff, deputy sheriff, detective or other county police officer whatsoever shall perform, directly or indirectly, any official services or official duties for any person, association or corporation, or receive, directly or indirectly, any compensation, gifts or gratuities from any person, association or corporation, during the period of his official services. Nothing herein contained shall prohibit such officers from serving writs and other legal process as authorized by law. Any compensation payable to any such officer for official duties and services shall be paid only out of the public funds, to the amount and in the manner prescribed by law. Gifts, donations and gratuities of any nature whatsoever, made by any person, association or corporation to the county or to any official or agent thereof, shall not constitute public funds within the meaning of this section.

(b) No county, or any official or agent thereof, shall accept as a gratuity, gift or donation any arms, ammunition, military supplies, tear gas or equipment, or supplies or articles of a similar character from, nor shall any such gratuity, gift or donation be made by, any person, association or corporation.

(c) Any contract or agreement whatsoever made in violation of the provisions of this section shall be utterly void and of no effect in law or in equity and is hereby declared to be contrary to public policy.

Section 1211. Penalties.—Any sheriff, deputy sheriff or any other county police officer whatsoever, or any other official of the county, or any person, association or corporation violating any of the provisions of sections 1206, 1209 or 1210 of this act, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or to undergo imprisonment for not less than ninety (90) days nor more than two years, or both.

Section 1212. Construction.—Nothing contained in sections 1206 or 1210 of this act shall be construed:

(a) To prohibit the payment by any person, association or corporation of fees or compensation for county police or other peace officers assigned to exhibitions, athletic contests or other recreational activities.

(b) To prohibit the appointment, employment or compensation by the county, in the manner expressly provided by law, of (1) night watchmen, (2) railroad police, (3) bank police, (4) payroll police, (5) special policemen, to police and protect cemeteries and grounds and buildings open to the public, or to enforce laws for the prevention of cruelty to persons or animals, (6) fire police, whose only duty shall be to direct traffic and maintain order to, at or from fires, (7) police or guards employed by nonprofit corporations or organizations.

Section 1213. Solicitor.—The sheriff may appoint one person learned in the law and admitted to practice in the county of this Commonwealth as his solicitor. Said solicitor shall advise the sheriff upon all legal matters that may be submitted to him, and shall conduct any litigation in connection with the sheriff's office, when requested so to do by the sheriff.

Section 1214. Sheriff to Act as Coroner in Case of a Vacancy.—If the coroner shall be legally removed from his office, or shall die before the expiration of the term for which he was commissioned, the sheriff of the county shall execute the office of coroner and perform all things thereunto appertaining until another coroner is commissioned and notice thereof is given to such sheriff.

Section 1215. Sheriff to Keep Docket.—Every sheriff and every coroner acting as sheriff shall provide and keep in his office a book or books in which he shall enter all writs that may come to him and the proceedings thereon, and at the expiration of his term of office, such book or books shall be deposited in the office of the prothonotary, for the inspection of all persons interested therein.

#### (b) Coroner

Section 1231. Deputies.—The coroner may appoint one or more deputies to act in his place and stead, as he may deem proper and necessary. Such deputy or deputies shall have the same powers as the coroner.

Section 1232. Duties with Respect to County Morgues.—The coroner of the county shall make general rules and regulations for the government and control of county morgues, and shall appoint suitable persons for such morgues so established to have charge of the same, and who shall be removable at the pleasure of the coroner. The number of such persons and the salary of each shall be fixed by the salary board.

Section 1233. Removal of Bodies to Morgue.—Whenever the body of any deceased person who is unidentified, or which body is unclaimed by proper persons, has been found within the county, it shall be removed to the county morgue. The coroner shall, if he deems it necessary, cause any such body to be properly embalmed or prepared for preservation for such length of time as he may think proper. Any such body shall be examined or inspected only by such persons as the coroner authorizes in writing or who are admitted in his presence. No such body shall be removed from any such morgue except upon the certificate of the coroner.

Section 1234. Ambulance.—In the county, the county commissioners shall furnish and maintain, from the general funds of the county, an ambulance for the removal of bodies of deceased persons to and from the morgue and for the burial of unclaimed bodies. The coroner may provide rules and regulations for the use and maintenance of the ambulance.

Section 1235. Unclaimed Property of Deceased; Sales.—(a) The coroner shall safely keep in his charge all personal effects and property which appear to have been on or about the person at the time of his death, or being found on any decedent whose body is received at the county morgue, and all such effects and property which are delivered to him according to law. The coroner shall hold such property for one year, unless sooner claimed by legal representatives of the deceased or otherwise duly and lawfully claimed or disposed of.

(b) After one year, the coroner shall cause such property remaining unclaimed, or so much thereof as remains undisposed of according to law, except moneys and such properties as securities which may not be subject to such a sale, which shall be turned over to the commissioners for proper disposition or use, to be sold at public sale.

(c) Notice of any such public sale shall be published in at least one newspaper of general circulation in the county once a week for three successive weeks. The proceeds of all such sales shall be paid immediately into the county treasury, and the coroner shall make a written report thereof to the county commissioners, under oath, at the same time. If the body has been buried at the expense of the institution district, the county shall pay the proceeds of sale, or such property as was not subject to sale, as hereinbefore provided, less costs, over to the institution district. The foregoing provisions shall be in lieu of escheat to the Commonwealth.

Section 1236. Coroner's Investigations.—The coroner having a view of the body shall investigate the facts and circumstances concerning deaths which appear to have happened within the county, regardless where the cause

thereof may have occurred, for the purpose of determining whether or not an inquest thereof should be had, in the following cases: (1) Any sudden, as hereafter defined, violent or suspicious death, (2) any death wherein no cause of death is properly certified by a person duly authorized thereof, (3) any death resulting from a mine accident, as directed by law, (4) deaths resulting from drownings, cave-ins and subsidences, (5) any stillbirth, or the death of any baby dying within twenty-four hours after its birth, and, in addition thereto, (6) the death of any prematurely born infant, wherein the cause of death is not properly certified by a person duly authorized thereto.

The purpose of the investigation shall be to determine whether or not there is any reason sufficient to the coroner to believe that any such death may have resulted from the criminal acts or criminal neglect of persons other than the deceased, rather than from natural causes or by suicide.

Section 1237. Inquest; Autopsy; Coroner's Duties; Records.—If, upon the investigation by the coroner, he shall not be satisfied thereby that the death resulted from natural causes or by suicide, he shall proceed to conduct an inquest upon a view of the body, as provided by law. In the conduct of the inquest, the coroner may require such an autopsy as may be necessary, in accordance with law. At the inquest, the coroner's duty shall be to ascertain the cause of death and whether any person other than the deceased was criminally responsible therefor by act or neglect, and if so, the identity of the person, and any further evidence and witnesses regarding the crime. The proceedings at the inquest shall be recorded, at the expense of the county, in a manner to be provided by the county commissioners, and any salary that may be required for this purpose shall be fixed by the salary board.

Section 1238. Sudden Deaths Defined.—The coroner shall regard any death as sudden if it occurs without prior medical attendance by a person who may lawfully execute a certificate of death in this Commonwealth, or if, within twenty-four hours of death, the decedent was discharged from such medical attendance or a change of such medical attendance had occurred, or if any such medical attendance began within twenty-four hours of death and the medical attendant refuses or is unable to certify the cause of death. Medical attendance includes hospitalization.

The provisions of this section shall not be construed to affect the coroner's discretion as to whether or not any death was suspicious, nor shall they be construed to authorize a coroner to investigate a sudden death any

further than necessary to convince him that the death was from natural causes and not from any criminal act or neglect of another.

Section 1239. Bodies Not to be Moved.—In all cases where the coroner has jurisdiction to investigate the facts and circumstances of death, the body and its surroundings shall be left untouched until the coroner has had a view thereof and until he shall otherwise direct or authorize, except as may be otherwise provided by law, or as circumstances may require. Bodies upon a public thoroughfare or in other places may be removed so much as is necessary for precaution against traffic accidents or other serious consequences which might reasonably be anticipated if they were left intact.

Section 1240. Release of Coroner's Jurisdiction.—Whenever the coroner assumes jurisdiction of a body pursuant to the provisions of this subdivision or of any other law, the body shall not be released or removed from his jurisdiction except upon his direction and consent, in accordance with law.

Section 1241. Cooperation with District Attorney.—In the exercise of his duties as contained in this subdivision, the coroner shall, so far as may be practicable, consult and advise with the district attorney.

Section 1242. Certificate of Cause of Death.—The coroner shall issue a certificate of cause of death in all cases referred to him by the local registrar of vital statistics, pursuant to the provisions of the act, approved the twenty-first day of May, one thousand nine hundred forty-three (Pamphlet Laws 414), known as the Uniform Vital Statistics Act, and in all other cases of which he has jurisdiction, if no person duly authorized by the said act certifies the cause of death.

Section 1243. Power of Subpoena and Attachment.—The coroner shall have power to issue subpoenas to obtain the attendance of any person whom it may be necessary to examine as a witness at any inquest, and to compel attendance by attachment in like manner and to the same extent as any court of oyer and terminer and general jail delivery of this Commonwealth may or can do in cases pending before them, and also to compel in like manner the production of all papers and other things relative to such inquest. Such subpoena and attachment shall be served and executed by the sheriff or by the coroner himself or his deputy, as the case may require.

Section 1244. Power to Administer Oaths.—The coroner shall have power to administer oaths and affirmations to all persons brought or appearing before him, and any person swearing or affirming falsely on such examination shall be guilty of perjury.

Section 1245. Commitment to County Prison.—If any person appearing before the coroner for examination shall refuse to take oath or affirmation, or after having been sworn or affirmed shall refuse to make answer to such questions as shall be put to him by the coroner touching the matters of the inquest, such person so refusing may be held for contempt before the court of quarter sessions.

Section 1246. Inquests Not Public.—The coroner may, in his discretion, admit or exclude members of the public from any inquest or part thereof, and admit or exclude any person interested or suspected from such inquest or any part thereof. No person excluded may appear by attorney, but any person required to attend may have benefit of counsel at such attendance.

Section 1247. Coroner to Act as Sheriff in Case of Vacancy.—If the sheriff shall be legally removed from his office or shall die or resign before expiration of the term for which he was commissioned, the coroner of the county shall execute the office of sheriff and perform all things thereunto appertaining until another sheriff is commissioned and notice thereof is given to such coroner.

Section 1248. Vacancies; No Fees upon Commissions.—If any person elected to the office of coroner shall neglect or refuse, for the space of two months next after such election, to assume the duties of said office and to comply with the requirements of the acts of Assembly in such cases, the office shall be vacant, and it shall be the duty of the Governor, upon the notification of the recorder of deeds, to appoint and commission some suitable person to fill such vacancy, until the first Monday of January next succeeding the first municipal election which shall occur two or more months after the happening of such vacancy. Such appointee shall be confirmed by the Senate if in session. No fees shall hereafter be charged on commissions issued to the coroner.

#### (c) Provisions Relating to Sheriffs and Coroners

Section 1260. Not to Exercise Office Until Commission Granted and Recorded; Penalty.—No person elected or appointed to the office of sheriff or coroner shall execute any of the duties of such office before a commission shall have been duly granted to him by the Governor and recorded in the recorder of deeds office, under a penalty of imprisonment for a term not exceeding six months, at the discretion of the court of quarter sessions. Such person shall nevertheless be liable to any person injured by any acts done by him under color of such office.

Section 1261. Recognizances of Sheriffs and Coroners.—(a) Every sheriff, whether elected, reelected or

appointed to fill a vacancy, not including any coroner temporarily acting as sheriff, and every coroner, before he is commissioned or executes any duties of his respective office, shall execute and duly acknowledge before the recorder of deeds a proper recognizance, without any surety, to the Commonwealth of Pennsylvania for the faithful discharge of all of his official duties, in like manner as that of his official bond required by law and in a form containing like conditions as such bond. The recognizance shall be immediately recorded in said county, at the expense of said sheriff or coroner, and when so recorded shall be transmitted to the Secretary of the Commonwealth with said recorder's certificate endorsed thereon of its having been duly recorded and with a reference to the place of record thereof.

(b) Every such recognizance hereafter executed shall continue to be a lien on the real estate owned by the sheriff or coroner at the date of such acknowledgment for a period of six years from that date. Every recognizance heretofore executed by any sheriff or coroner shall continue to be a lien on the real estate owned by the sheriff or coroner at the time the recognizance was dated for a period of six years after that date, but in every case where the period of six years has already expired, the lien of such recognizance shall continue for a period of two years after the twenty-ninth day of September, one thousand nine hundred fifty-one, or to the end of the lien term fixed by law at the time the recognizance was executed, whichever date shall first occur.

(c) The Secretary of the Commonwealth shall have and keep the custody of every such recognizance, and any copy thereof and of said endorsements certified to by the Secretary of the Commonwealth shall be competent evidence of the execution, delivery and recording thereof in any judicial proceedings, and may be relied upon by any public officer to the same extent as the original recognizance.

(d) The recorder of deeds may also certify copies of such recognizance and the time and place of record thereof for like purposes, upon receipt of his fees therefor, according to existing laws.

(e) Such recognizance or any duly certified copy thereof may likewise be recorded and indexed like a judgment in any other county of this Commonwealth by any person or public officer, upon payment of the usual fees to the recorder of deeds and prothonotary of such county, respectively, for the purpose of creating a lien on any real estate of the sheriff or coroner obligated thereby lying in such other county.

(f) It shall be the duty of the recorder of deeds of the county for which a sheriff or coroner is elected or

appointed, as soon as said sheriff or coroner is commissioned, to certify the date, amount and place of record of his recognizance, with the name and address of said sheriff or coroner, to the prothonotary of said county, who shall enter such information upon his docket and index the lien of such recognizance like a judgment obtained in the court of common pleas of the county.

(g) Every sheriff's or coroner's recognizance hereafter given shall inure to the benefit of any surety on his official bond entitled to subrogation to the rights of any person or corporation, including any county intended to be benefited thereby, injured by any official misconduct or neglect of the sheriff or coroner who executed such recognizance, to the extent of any payments by such surety for any damages for which such sheriff or coroner may be held to be liable in any suit or proceedings against such sheriff or coroner on his official bond or recognizance. A similar right of subrogation may be enforced with respect to any such recognizance heretofore given, to the extent permitted by law or equity.

Section 1262. Sale of Real Estate Bound by Lien.—(a) If the sheriff or coroner shall sell any real estate bound by the lien of any recognizance, such sheriff or coroner may present a petition to the court of common pleas of the county wherein the land so bound is situate, accompanied by notice to his sureties on his official bond and to his board of county commissioners, setting forth the fact of such sale, and praying for a release of the lien of such recognizance upon the real estate described in the petition.

(b) The court, being satisfied of the sufficiency of the sureties upon his official bond and that no action has been commenced by any person or corporation on said recognizance, or that all suits thereon have been ended by payment of any judgments obtained therein or otherwise, may release the lien upon such land.

(c) The court of common pleas of such officer's county may, before the release of the lien upon any such real estate, approve of additional sureties to be added or substituted upon his official bond, as such court shall deem necessary.

Section 1263. Limitation of Action; Satisfaction of Recognizance.—No action or scire facias shall be brought upon the recognizance of the sheriff or of the coroner after seven years from the date of such recognizance. The court of common pleas may, after such time, upon application of the sheriff or coroner, as the case may be, order and direct that the recognizance be marked satisfied on the record and upon the docket of the prothonotary, and the land involved shall thereupon be discharged from the liens thereof.

## Article XIII

Prothonotary; Clerk of Court; Clerk of Orphans' Court;  
Register of Wills; Recorder of Deeds

Section 1301. Election of Prothonotary, Clerk of Court, Clerk of Orphans' Court, Register of Wills, Recorder of Deeds.—At the municipal election preceding the expiration of the term of office of any prothonotary, clerk of the court of quarter sessions, clerk of the court of oyer and terminer, register of wills, \*clerk of the orphans' court or recorder of deeds of the county and quadrennially thereafter, the electors of the county shall elect a person to fill such office from the first Monday of January next succeeding such election, for a term of four years and until his successor is elected and qualified. Where, under the provisions of this act or other law, it is provided that two or more of said offices shall be held by the same person, only one person shall be elected to hold such office.

Section 1302. How Offices to Be Held.—In the county, one person shall hold the office of prothonotary, one person the office of clerk of the court of oyer and terminer and quarter sessions, one person the offices of register of wills and clerk of the orphans' court, and one person the office of recorder of deeds.

Section 1303. Incompatible Offices.—No person shall hold at the same time the office of justice of the peace and that of prothonotary or clerk of any court. Nor shall any prothonotary or clerk of any court practice as attorney or counsellor in the court of which he is prothonotary or clerk. Nor shall the register of wills of any county practice as aforesaid in the orphans' court of the same county.

Section 1304. Appointment of First Deputies.—The prothonotary, clerk of the courts of quarter sessions and oyer and terminer, and clerk of the orphans' court and recorder of deeds shall appoint one first deputy to act in the case of the death or resignation of his principal, or when the office shall become vacant from other causes. The register of wills shall appoint a deputy or deputies as provided by law.

Section 1305. Power of Prothonotary, Clerks, Deputies and Assistants to Administer Oaths and Affirmations.—The prothonotary, clerks of the courts of quarter sessions and oyer and terminer and clerks of the orphans' courts and the deputies of such offices shall have a general power to administer oaths and affirmations: Provided, That no prothonotary or clerk shall be compelled to administer the same in any matter not pertaining to the proper business of his office. Any clerk in the office of the prothonotary, designated by the prothonotary,

\* "clerks" in original.

shall have the power of deputy prothonotary, so far as relates to the administration of oaths and affirmations in the performance of the work of the office.

Section 1306. Appointment of Minute Clerks by the Courts of Common Pleas and Courts of Quarter Sessions and Oyer and Terminer.—The court of common pleas and the court of quarter sessions and oyer and terminer shall, respectively, appoint minute clerks of said courts, and shall give bond in such sum as the respective courts may direct. This title shall not affect the power of the prothonotary of Allegheny County to appoint clerks of the county court for the County of Allegheny, under the provisions of section five of the act, approved the fifth day of May, one thousand nine hundred and eleven (Pamphlet Laws, one hundred and ninety-eight), entitled "An act to establish a county court for the county of Allegheny, and prescribing its powers and duties; regulating the procedure therein, and providing for the expenses thereof," or its amendments.

Section 1307. Second Deputy Prothonotary.—The prothonotary may appoint a second deputy prothonotary, who shall possess and discharge all the rights, powers and duties of the principal deputy prothonotary during his necessary or temporary absence.

Section 1308. Prothonotary to File and Keep Advance Copies of Law.—The prothonotary shall file and keep in his office advance copies of the laws enacted at each session of the General Assembly, as they are furnished to him by the Secretary of the Commonwealth, for a period of one year from the date of reception of the first of said laws enacted at each session of the General Assembly, in such manner that they shall be accessible to the public during the office hours of the prothonotary.

Section 1309. Assistant Clerks of Orphans' Court.—The clerk of the orphans' court may appoint an assistant clerk or clerks, but only with the consent and approval of said court.

Section 1310. Minute Clerks of Orphans' Court.—The judges of orphans' court shall appoint a chief minute clerk and a sufficient number of assistant minute clerks to perform such duties in connection with the business of said court as the salary board may direct. The salaries of such clerks shall be paid by the county in the same manner as employes of the office of the register of wills and clerk of the orphans' court. The office of chief assistant clerk and the offices of assistant clerks of the orphans' court shall not be incompatible with the offices of chief minute clerk and assistant minute clerks of said court.

Section 1311. Second Deputy Recorder.—The recorder of deeds may appoint a second deputy recorder of deeds, who shall possess and discharge all the rights, powers and duties of the principal deputy recorder of deeds during his necessary or temporary absence.

Section 1312. Clerks of Recorder to Administer Oaths.—The recorder of deeds may appoint one or more clerks employed in his office to administer oaths and affirmations to all persons pertaining to the business of the recorder's office, with the same force and effect as if administered by the recorder or deputy recorder.

#### Article XIV

##### District Attorney, Assistants and Detectives

###### (a) District Attorney

Section 1401. District Attorney; Qualifications; Eligibility.—(a) The district attorney shall be a resident of the county, learned in the law and admitted to practice in the courts of this Commonwealth.

(b) The district attorney shall have been admitted to practice as an attorney before the Supreme or Superior Courts of this Commonwealth for at least two years prior to the time for taking the oath of office.

(c) No district attorney shall be eligible to a seat in the Legislature or to any other office under the laws and Constitution of the Commonwealth, excepting an office or commission in the militia of the Commonwealth, during his continuance in office.

Section 1402. Duties of District Attorney; Entry of Nolle Prosequi.—(a) The district attorney shall sign all bills of indictment and conduct in court all criminal and other prosecutions, in the name of the Commonwealth, or, when the Commonwealth is a party, which arise in the county, and perform all the duties which now by law are to be performed by deputy attorneys general, and receive the same fees or emoluments of office.

(b) The district attorney shall not enter a nolle prosequi in any criminal case, either before or after bill found, or discharge a prisoner from custody, without first having obtained the approval of the court in writing.

Section 1403. Expenses Incurred by District Attorney.—All necessary expenses incurred by the district attorney or his assistants or any officer directed by him in the investigation of crime and the apprehension and prosecution of persons charged with or suspected of the commission of crime shall be paid by the county from the general funds of the county, upon the approval of the bill of expenses by the district attorney and the court. In any case where a defendant is convicted and sentenced to pay the costs of prosecution and trial, the

\* "county" in original.

expenses of the district attorney in connection with such prosecution shall be considered a part of the costs of the case and be paid by the defendant.

Section 1404. Filling of Vacancies.—If any vacancy shall occur in the office of district attorney, either by death, resignation, removal from office or from the county, or otherwise, the judges of the court of common pleas shall supply such vacancy by the appointment of a competent person to fill the office during the balance of the unexpired term.

Section 1405. Misconduct of District Attorney.—(a) If the district attorney shall wilfully and corruptly demand, take or receive any other fee or reward than such as is prescribed by law for any official duties required by law to be executed by him in any criminal proceeding, or if such district attorney shall be guilty of wilful and gross negligence in the execution of the duties of his office, he shall be guilty of a misdemeanor in office, and, on conviction thereof, be sentenced to pay a fine not exceeding one thousand dollars (\$1000) and to undergo imprisonment not exceeding one year, and his office shall be declared vacant.

(b) Upon complaint in writing, verified by the oath or affirmation of the party aggrieved, made to the court in which any district attorney shall prosecute the pleas of the Commonwealth, charging such district attorney with wilful and gross negligence in the execution of the duties of his office, the court shall cause notice of such complaint to be given to the district attorney and of the time fixed by the court for the hearing of the same. If upon such hearing the court shall be of opinion that there is probable cause for the complaint, they shall hand over or commit the district attorney to answer the same in due course of law. If the court shall be of opinion that there is no probable cause for such complaint, they shall dismiss the same, with reasonable costs to be assessed by the court.

Section 1406. District Attorney Charged with Crime.—If the district attorney is charged, according to law, with any crime or misdemeanor before or bound over or committed by any court to answer for wilful and gross negligence in the execution of the duties of his office, it shall be the duty of the court to appoint some competent attorney thereof to prepare an indictment against such district attorney and to prosecute the same on behalf of the Commonwealth until final judgment. Such attorney shall be paid by the county for his services a reasonable compensation to be fixed by the court. If such district attorney shall be convicted of any crime for which he may be sentenced to imprisonment by separate or solitary confinement at labor, his office shall be declared vacant by the court.

Section 1407. Law Books for District Attorney.—The county commissioners may purchase, for the use of the office of the district attorney, out of the funds of the county, such law books as may be selected by the district attorney.

Section 1408. When Private Counsel May Prosecute.—If the district attorney shall neglect or refuse to prosecute in due form of law any criminal charge regularly returned to him or to the court, or if at any stage of the proceedings the district attorney of the county and the private counsel employed by the prosecutor shall differ as to the manner of conducting the trial, the prosecutor may present his petition to the court, setting forth the character of the complaint, and verify the same by affidavit. If the court shall be of the opinion that it is a proper case for a criminal proceeding or prosecution, it may direct any private counsel employed by such prosecutor to conduct the entire proceeding, and where an indictment is necessary, to verify the same by his own signature, as fully as the same could be done by the district attorney.

(b) Assistant District Attorneys, Stenographers  
and Clerks

Section 1420. Assistant District Attorneys; Number; Compensation.—The district attorney may appoint such number of assistants, learned in the law, to assist him in the discharge of his duties, the number and salary of such assistants to be fixed by the salary board.

Section 1421. Designation of First Assistant; Powers and Duties.—The district attorney shall designate one of such assistants as his first assistant. Such first assistant shall, in the absence of the district attorney from the jurisdiction or during his disability to perform the duties of his office through sickness or other cause, be vested with all the duties, powers and privileges given by law to the district attorney, and generally, at such time, be empowered to do and perform all things in connection with his office which the district attorney may by law be entitled to do or perform. In case of any such incapacity of the district attorney or his first assistant, or both, any or all of such duties, powers and privileges may be done by such other assistant district attorneys, if any, as may be designated by the district attorney.

Section 1422. Stenographers and Clerks.—The salary board may provide for the appointment by the district attorney of such clerks and stenographers in his office as may be deemed necessary for the proper dispatch of business.

## (c) County Detectives

Section 1440. Appointment; Duties and Compensation of County Detectives.—(a) The district attorney may appoint one chief county detective, an assistant chief county detective, and as many county detectives, sergeant, special county detectives and junior county detectives as the salary board shall fix.

(b) County detectives shall at all times be subject to the orders of the district attorney, and shall investigate and make report to the district attorney as to the conduct in office of magistrates, constables, deputy constables and other officers connected with the administration of criminal justice, to make investigations, and endeavor to obtain such evidence as may be required by the district attorney in any criminal case, and perform such other duties as the district attorney may direct. Said detectives shall be general police officers and shall have all powers now conferred on constables by existing laws of this Commonwealth, so far as they relate to crime or criminal procedure, and they shall serve subpoenas in cases in which the Commonwealth is a party in a court of record.

(c) Said chief county detective, assistant chief county detective, county detectives, sergeant, special county detectives and junior county detectives shall not be entitled to receive any fees whatsoever, but shall each receive such salary as shall be fixed by the salary board, together with all necessary traveling expenses, which said salary and expenses, having been verified by affidavit of the chief county detective, assistant chief county detective, county detective, sergeant, special county detective or junior county detective incurring the same, and approved by the district attorney, shall be paid out of the treasury of the county, on a certificate issued by the district attorney directed to the controller of the county, who shall order warrants for said amounts according to law.

Section 1441. Appointment of Special Detective with Approval of Court.—The district attorney of the county may, with the approval of the salary board, whenever the court of quarter sessions and district attorney may deem it necessary for a particular and temporary assignment, appoint a special detective, whose duty it shall be to assist in obtaining such evidence as shall be directed by the district attorney for the Commonwealth, and perform such other duties as the court may direct. He shall be allowed expenses necessarily and actually incurred in the performance of his duties.

Such special detective officer shall be a general police officer and shall have all the powers that are conferred on constables by the existing laws of this Commonwealth, so far as they relate to crimes or criminal procedure.

## Article XV

## Police and Employes of Jails and Workhouses

## (a) Police

Section 1501. Employment of Police.—(a) The county commissioners shall have power to employ such number of police as may be fixed by the salary board of the county. The compensation of such police officers shall be paid by the county.

(b) Such police officers shall have jurisdiction anywhere within the county by which employed, and shall have and possess all the following powers:

(1) To make arrests, without warrant, for all violations of the law which they may witness, and to serve and execute warrants issued by the proper authorities. In cases of offenses for violation of any of the provisions of the Vehicle Code, the power to make arrests without warrant shall be limited to cases where the offense is designated a felony or a misdemeanor, and cases causing or contributing to an accident resulting in injury or death to any person.

(2) The powers and prerogatives conferred by law upon members of the police force of cities of the first class.

(3) The powers and prerogatives conferred by law upon constables of the Commonwealth.

(4) To serve subpoenas issued for any examination, investigation or trial had pursuant to any law of the Commonwealth.

Section 1502. Exclusive System.—No member of the police force shall be appointed, promoted, reduced in rank, suspended, furloughed, discharged or reinstated, except in accordance with provisions of this article.

Section 1503. Civil Service Commission Created; Appointments; Vacancies.—(a) There is hereby created a civil service commission, hereinafter referred to as the commission. Each commission shall consist of three commissioners, who shall be appointed by the county commissioners, and who shall be qualified electors of the county for which appointed. They shall be appointed initially to serve the term of two, four and six years, and as terms thereafter expire, shall be appointed for terms of six years. Not more than two members of the commission shall be of the majority, and at least one shall at all times be of the minority political parties.

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

(c) Each member of the commission, before entering upon the discharge of the duties of his office, shall appear before the court of common pleas and take an oath or

affirmation to support the Constitutions of the United States and of the Commonwealth of Pennsylvania and to perform his official duties with fidelity.

(d) No commissioner shall at the same time hold an elective or appointive office under the United States Government, the Commonwealth of Pennsylvania or any political subdivision of the Commonwealth.

Section 1504. Organization of Commission; Quorum.—The commission shall organize within ten days after its appointment, and shall elect one of its members as the chairman and one as the secretary of the commission. The commission shall thereafter meet and organize on the second Monday of each even-numbered year. Each commissioner shall be notified in writing of each meeting of the commission. Two members of the commission shall constitute a quorum, and no action of the commission shall be valid unless it shall have the concurrence of at least two members.

Section 1505. Clerks and Supplies.—The county commissioners shall furnish to the commission, on its requisition, such clerical assistance as may be necessary for the work of the commission. The board of county commissioners shall provide a suitable and convenient room or rooms for the use of the commission. The commission shall order from the county commissioners the necessary stationery, postage, printing and supplies, and the county commissioners shall aid the commission in all proper ways in carrying out the provisions of this article.

Section 1506. Rules and Regulations.—Each commission shall have power to prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this article, and shall be governed thereby. Before any such rules and regulations are in force, the same shall first be approved by the board of county commissioners of the county. When such rules and regulations have been so approved, they shall not be annulled, amended or added to, without the approval of the board of county commissioners. All such rules and regulations and modifications thereof shall be printed for public distribution.

Section 1507. Minutes; Records; Annual Report.—Each commission shall keep minutes of its proceedings and records of examinations and other official actions. All recommendations of applicants for appointment received by the commission shall be kept and preserved for a period of five years. All such records and all written causes of removal filed with the commission shall be subject to reasonable regulations and open to public inspection. The commission shall make an annual report to the board of county commissioners, containing a brief summary of its work during the year, which shall be

available for public inspection five days after the filing thereof.

Section 1508. Investigations; Subpoenas.—(a) The commission shall have power to make investigations concerning all matters touching the administration and enforcement of the provisions of this article and rules and regulations adopted thereunder.

(b) Each member of the commission is hereby given power to administer oaths as oaths are administered by other public officers invested by law with the power of administering oaths, with the same force and effect and carrying the same penalties.

(c) The commission shall have power to issue subpoenas, over the signature of the chairman or secretary, to require the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry authorized by this article.

(d) The fees of such witnesses and for travel shall be the same as for witnesses appearing in the \*court of common pleas, and shall be paid from appropriations for incidental expenses of the commission, as provided by the board of county commissioners.

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

(f) If any person shall refuse or neglect to obey any subpoena issued by the commission, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine not to exceed one hundred dollars (\$100) or imprisonment in the county jail not to exceed thirty days.

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

Section 1509. General Provisions Relating to Examinations.—(a) Each commission shall make rules and regulations, to be approved as herein prescribed, providing for the examination of applicants for positions in the police force and promotions therein. The rules and regulations shall prescribe the minimum qualifications of all applicants to be examined and the passing grades.

(b) All examinations for positions or promotions in the police force shall be practical in character and shall relate to such matters and include such inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of the employment sought by

\* "courts" in original.

them. All examinations shall be open to all applicants who have the minimum qualifications required by the rules and regulations, but in no case shall an applicant for promotion be considered until such applicant shall have first served three years in the police force in which he seeks promotion. Each applicant for examination shall be subject to the rules adopted by the commission, and shall be required to submit to a physical examination before being admitted to the regular examination held by the commission.

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

(d) The commission shall post in its office the eligible list containing the names and grades of those who have passed the examination for positions under this article.

(e) In cases of applications for position to the police force, soldiers, as defined by the act, approved the twenty-second day of May, one thousand nine hundred forty-five (Pamphlet Laws 837), entitled, as amended, "An act providing for and requiring in certain cases preference in appointments to and retention in public position or on public works for honorably discharged persons who served in the military or naval service during any war in which the United States engaged; and in certain cases for the widows and wives of such persons," shall be entitled to all the preferences and benefits therein provided, so far as applicable.

Section 1510. Application for Examination for Appointment to the Police Force.—Each person desiring appointment to the police force shall apply to the commission for examination, and shall file with the commission a formal application, as provided by it, and shall state, under oath or affirmation, (1) his full name and residence or post office address, (2) his citizenship, place and date of birth, (3) his condition of health and physical capacity for public service, (4) his business or employment and his residence for the past five years, and (5) such other information as may be required by the commission's rules and regulations, showing the applicant's qualifications for the position for which he is being examined.

No person shall be eligible to apply for examination unless he is more than twenty-one years of age at the date of application, and has been a resident of the county for at least two years immediately preceding his application unless no resident applicants are available.

**Section 1511. Rejection of Applicant; Hearing.—(a)** The commission may refuse to examine any applicant, or after examination may refuse to certify as eligible anyone, who is found to lack any of the minimum qualifications for examination prescribed in the rules and regulations adopted for the position or employment for which he has applied, or who is physically disabled and unfit for the performance of the duties of the position to which he seeks employment, or who is addicted to the habitual use of intoxicating liquors or drugs, or who has been guilty of any crime involving moral turpitude or infamous or notorious disgraceful conduct, or who has been dismissed from public service for delinquency or misconduct in office, or who is affiliated with any group whose policies or activities are subversive to the form of government set forth in the Constitutions and laws of the United States and of Pennsylvania.

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

**Section 1512. Manner of Making Appointments.—**Every position of employment, except that of superintendent of police or equivalent official, unless filled by promotion or reinstatement, shall be filled only in the following manner: The county commissioners shall notify the commission of any vacancy in the police force which is to be filled and shall request the certification of a list of eligibles. The commission shall certify for each existing vacancy, from the eligible list, the names of three persons thereon, who have received the highest average in the last preceding examination held within a period of one year next preceding the date of the request for such eligibles. The county commissioners shall thereupon, with sole reference to the merits and fitness of the candidates, make an appointment from the three names certified, unless they make objections to the commission as to one or more of the persons so certified for any of the reasons stated in the preceding section. As each subsequent vacancy occurs in the same or another position, precisely the same procedure shall be followed.

**Section 1513. Superintendent of Police, etc.—**In the case of a vacancy in the office of superintendent of police or equivalent official, the county commissioners may nominate a person to the commission. It shall thereupon become the duty of the commission to subject such person

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

Section 1514. Probationary Period.—All appointments to any position in the county police force shall be for a probationary period of six months, but during the probationary period an appointee may be dismissed only for cause, as specified in section 1511 of this act. If, at the close of the probationary period, the conduct or fitness of the probationer has not been satisfactory to the board of county commissioners, the probationer shall be notified in writing that he will not receive a permanent appointment. Thereupon, his appointment shall cease; otherwise, his retention shall be equivalent to a permanent appointment.

Section 1515. Provisional Appointments.—Whenever there are urgent reasons for the filling of a vacancy in any position in the police force and there are no names on the eligible list for such appointment, the board of county commissioners may nominate a person to the commission for a noncompetitive examination, and if such nominee shall be certified by the commission as qualified, after such noncompetitive examination, he may be appointed provisionally to fill such vacancy until an examination for such position can be held. It shall thereupon become the duty of the commission, within three weeks from the date of provisional appointment, to hold a competitive examination for such position, and certify a list of eligibles to the board of county commissioners, and they shall then make a regular appointment as prescribed in this article. Nothing herein contained shall prevent the appointment without examination of persons temporarily as police officers, in emergency cases, for the suppression of riots, tumults, in times of war, pestilence, conflagration or public celebration.

Section 1516. Promotions.—Promotions shall be based on merit, to be ascertained by written examinations to be prescribed by the board of county commissioners and held under the supervision of the commission. All examinations for promotions shall be practical in character and such as will fairly test the merit and fitness of the persons seeking promotion. No member of the county police force shall be eligible to take any promotional examination until after serving three years in the county police force for which such examination is held. The board of commissioners shall have power to determine in each instance whether an increase in salary shall constitute a promotion.

Section 1517. Physical Examinations.—All applicants for examination shall undergo a physical examination,

which shall be conducted under the supervision of a doctor of medicine appointed by the board of county commissioners. No person shall be eligible to take an examination until said doctor certifies to the commission that the applicant is free from any bodily or mental defects, deformity or disease that might incapacitate him from the discharge of the duties of the position desired in the police force.

Section 1518. Reducing in Rank; Suspension; Furloughing; Discharging.—(a) No person employed in a county police force shall be reduced in rank (except superintendent of police), suspended, furloughed or discharged, except for the following reasons: (1) neglect or violation of any official duty; (2) violation of any law of this Commonwealth which provides that such violation constitutes a misdemeanor or a felony; (3) inefficiency, except as hereinafter provided, wilful disobedience of orders, or conduct unbecoming a police officer; (4) drinking of intoxicating liquor while on duty or the use of which renders him unfit for duty when called upon.

(b) In every case of reduction of rank (except that of superintendent of police), suspension, furlough or discharge, a copy or statement of the reasons therefor and written answers thereto shall be furnished to the person sought to be reduced in rank, suspended, furloughed or discharged, if he shall make demand therefor. He shall have the right to appeal to the commission for a hearing on the reasons or charges preferred against him.

(c) Upon the written request for a hearing, the commission shall arrange for the hearing within ten days from receipt of such request. At such hearing, the person against whom the charge or reason is made may be present in person and by counsel, and the burden shall be upon the party making such charges or reasons to justify his action.

(d) In the event the commission fails to uphold the action of the party who made the charges or reasons, then the person against whom the charges were preferred shall be paid in full his salary for the time he may have been prevented from performing his usual employment as a police officer, and no record of the case shall be placed against his service record in the police force.

(e) If, in the case of demotion of any employe (except that of superintendent of police), the charges or reasons are sustained, then such person shall not be reverted below his seniority standing on the roster of the grades of patrolman in the police force.

(f) A written record of all testimony shall be taken at each hearing held by the commission, and such records

shall be sealed and not available to public inspection in the event no appeals are taken from the action of the commission.

(g) In the event the commission shall sustain the party who preferred the charges or reasons, then the party against whom the charges or reasons were made shall have immediate right of appeal to the court of common pleas of the county. Such appeal shall be taken within the period of ninety days from the date of entry by the commission of its final order and shall be by petition. Upon such appeal being taken and docketed, the court of common pleas shall fix a day for the hearing and proceed to hear the appeal de novo on the original record, and the employe shall be reduced, suspended, furloughed or discharged, in accordance with the order of the court.

(h) In cases where a member of a county police force whose duties are those of an outside policeman is found to be physically unfit to perform such duties due to an infirmity resulting from the performance of his duties as a policeman, or whenever any such member has served for a period of twenty years and is at least fifty years of age, such member, upon application to the board of county commissioners, if there is any vacancy existing in the number of building policemen, building guards or other positions, the responsibility of which is building protection or security, as set forth in the budget of the county, shall be assigned to inside work as building policeman or other special duties without any diminution in pay. Where more applications are made and filed than there are vacancies existing, such assignments shall be made first to applicants found to be physically unfit and secondly to applicants in order of their seniority in service. Where two or more applicants have equal seniority in service, assignments shall be determined by the alphabetical order of the first letter of the surname of the applicants. As vacancies occur, assignments shall be made according to a seniority list determined as aforesaid.

Section 1519. Reduction in Number of Policemen; Reinstatement.—If, for reasons of economy or other reasons, it shall be deemed necessary by the board of county commissioners to reduce the number of policemen in the police force, then such reduction in numbers shall be made in the following manner: (1) if there are any policemen eligible for retirement under the terms of any retirement or pension system or law, then such reduction in numbers shall be made by retirement, if the party to be retired has served in the police force for a period of at least twenty-five years and reached the age of fifty-five years or over; (2) if the number of policemen eligible for

retirement is insufficient to effect the reduction in numbers decided upon by the board of county commissioners, or if no retirement or pension system or law exists, or if there are no policemen eligible for retirement or pension, then the reduction shall be made by furloughing the last policeman, including the probationers, that have been appointed to the police force, and continue in numerical order until the reduction decided upon by the board of county commissioners has been effected. In any case where there has been more than one employe appointed at the same time, then such furloughing shall be determined by the alphabetical order of the first letter of their surname. In the event the said police force shall again be increased in numbers, then the employes furloughed shall be reinstated, in the inverse order of that in which they were furloughed, before any new appointments shall be made to the police force.

Section 1520. Present Employes Exempted.—(a) All members (except superintendent of police) of the county police force upon the fourth day of May, one thousand nine hundred forty-three, shall continue to hold their positions, and shall not be required to take any examination under the provisions of this article except such as may be required for promotion. Any member of a county police force who was dismissed from such force between the first day of January, one thousand nine hundred forty-three, and the fourth day of May, one thousand nine hundred forty-three, for any reason except those as specified in section 1511 of this act, shall be reinstated to his former position in the police force without any examination whatsoever.

(b) Each member of the county police force now or hereafter serving in the armed forces of the United States during any war or any police action in which the United States is engaged shall, upon his honorable discharge from such service and return to such police force, be reinstated in the force in a position of equal grade to that which he held immediately before entering the armed forces of the United States. He shall continue to hold such position, and shall not be required to take any examination under the provisions of this article except such as may be required for promotion.

Section 1521. Discrimination on Account of Religious or Political Affiliations.—No question in any form of application for any examination or in any examination shall be so framed as to elicit information concerning the religious or political opinions of any applicant, nor shall inquiry be made concerning such opinions or affiliations, and all such disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened or promised by any person in or interested in the police force

against or in favor of an applicant on the eligible list for appointment to or promotion in the police force because of his religious or political opinions or affiliations.

Section 1522. Penalties.—Any county commissioner or anyone acting for the board of county commissioners who shall cause any person to be appointed to or promoted in the police force contrary to the provisions of this article, or who violates any of the provisions of this article, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not more than five hundred dollars (\$500) or suffer imprisonment not exceeding one year, or both.

Section 1523. Compensation of the Commission and its Employes.—The compensation to be received by members of the commission or any of the employes they may require for putting into effect the provisions of this article shall be fixed by the salary board.

Section 1524. Hours of Service; Exceptions; Vacations.—Every member of the police force shall have at least twenty-four consecutive hours of rest in each 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 celebration. No member shall be required to work more than eight consecutive hours in any twenty-four hours except in the aforesaid cases of emergency. Every member shall be allowed one day's vacation for each month of service for the first twelve months of service, and thereafter an annual vacation of not less than fourteen days. He shall also be allowed an annual sick leave of not less than fourteen days. All such vacation and sick leave shall be without any deduction or diminution of salary or compensation as fixed by the salary board.

Section 1525. Compensation and Expenses to Policemen Injured or Ill.—Every member of the police force who may be injured or become sick through the performance of his duties, and by reason thereof is temporarily incapacitated from performing his duties, shall be paid by the county his full rate of salary as fixed by the salary board until the disability arising therefrom has ceased. All medical and hospital bills incurred in connection with any such injury or sickness shall be paid by the county. All benefits under the Workmen's Compensation Law which shall be received or collected by any such member during the period he has received salary for temporary disability shall be paid over to the county and paid into the treasury thereof. If any such payment or payments shall not be so made by the member of the police force, the amount so directed to be paid to the county shall be deducted from any salary which shall then or thereafter become due and owing to such member.

## (b) Employes of Jails and Workhouses

Section 1531. Employes of Jails and Workhouses Disabled by Violence; Salaries and Expenses to be Paid.—Every guard, matron, nurse or other employe who comes in contact with inmates of any jail or workhouse, who is incapacitated as a result of violence by an inmate while in the performance of his duties, shall be paid by the county by which they are employed their full rate of salary as fixed by the salary board until the disability arising therefrom has ceased, but the period of such salary payments by the county shall not exceed the period during which such employe is entitled to compensation for the injury, received under the provisions of the Workmen's Compensation Act. All medical and hospital bills incurred in connection with any such injuries shall be paid by such county. All benefits under the Workmen's Compensation Law which shall be received or collected by any such employe during the period he has received salary for temporary disability shall be paid over to the county and into the treasury thereof. If any such payment or payments shall not be so made by such employe, the amount so directed to be paid the county shall be deducted from any salary which shall then or thereafter become due and owing to such employe.

Section 1532. Prison Inspectors to Appoint Jail Chaplains.—The board of prison inspectors shall appoint jail chaplains necessary to care for the spiritual welfare of prisoners under their charge.

The number and compensation of such chaplains shall be fixed by the salary board. Said compensation to be paid from the county treasury.

## Article XVI

## Commission for the Selection of Jurors

Section 1601. Commission for the Selection of Jurors.—The commission for the selection of jurors shall be governed as provided by law.

## Article XVII

## Employes' Retirement System

Section 1701. Definitions.—The following words and phrases as used in this article shall be construed to have the following meaning:

"Board," county employes' retirement board.

"Compensation," salary or wages received per day, weekly, semi-monthly, monthly, annually, or during an official term year.

"Contributions," amount paid into the retirement fund.

“County employe,” any person employed by the county, including all elected or appointed county officers, clerical personnel in the offices of the county superintendent of schools and agricultural extension association, county institution district, county prison, county workhouse and inebriate asylum, any county correctional institution, law library and county retirement board, employes whose compensation is paid out of county funds, county institution district funds or county retirement system funds. In all cases of doubt, the board shall determine who is an employe within the meaning of this article.

“Monthly,” calendar month.

“Per Annum,” twelve calendar months.

“Retirement allowance,” the amount to which a county employe is entitled to receive upon retirement from active service.

“Retirement fund or system,” fund or system created by this article.

“Service year,” twelve calendar months.

“Year,” twelve calendar months, including an official term year beginning the first Monday of January of a given year to the first Monday of January of the year following.

Section 1702. Retirement System and Fund to be Established.—The county shall provide a county employes’ retirement system for county employes and shall establish and regulate a retirement fund in connection therewith.

Section 1703. Retirement Board.—The retirement system shall be under the sole direction of a board, which shall consist of the county commissioners, the treasurer, the controller, and two persons elected by ballot from among the members of the retirement system, one to serve for two years and one for four years. Following the completion of the initial terms, the stated terms of such members shall be four years. Ballots shall be mailed to each member of the retirement system at least twenty (20) days prior to the date of the election. A vacancy occurring during the term of any member of the board shall be filled for the unexpired term by the appointment or election of a successor in the same manner as his predecessor. A majority of the members of the board shall constitute a quorum for the transaction of any business.

Section 1704. Treasurer and Secretary of Board; Power of Board to Employ Persons.—The county treasurer shall be the treasurer of the board, and shall give such bond for the proper performance of his duties as is required by the board. The premium on said bond shall be paid from the retirement fund on warrants of the board. The controller and the treasurer each shall re-

ceive for their services the sum of five hundred dollars (\$500) per annum from the retirement fund, payable on warrants of the board. The controller shall be the secretary of the board.

The board shall have power and authority to pay all necessary expenses in the administration of the retirement system, employ one solicitor \*and necessary assistants, who shall receive such compensation as the board shall fix, which shall be paid from the retirement fund on warrants of the board.

Section 1705. Register of Employes; Rules and Regulations of Board.—The board shall keep a register of all county employes containing the names, ages, residence, nature of employment, time of entering employ, and such other information as the board deems necessary in the performance of its duties. The board may adopt, amend, revise and abolish such rules and regulations as it deems necessary, not inconsistent with this act.

Section 1706. Investment or Deposit of Fund.—The board shall be the trustees of the retirement fund, and shall have exclusive control and management of the said fund with full power to invest the money or any part thereof, subject to the terms, conditions, limitations and restrictions that are provided by law for investments of trust funds by fiduciaries or the retention or sale of certain investments in the hands of fiduciaries. Subject to like terms, conditions, limitations and restrictions, the board shall have power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in the retirement fund, as well as the proceeds of said investments and of the money belonging to said fund, or it may deposit such moneys or any part thereof in one or more banks or banking institutions selected by the board. The board shall decide upon the number of banks and banking institutions of the county as depositories of retirement funds and the rate of interest to be paid by them to the board. A contract with a depository shall be for a period covering the term of the county treasurer. No moneys shall be deposited in a depository until it shall furnish to the board collateral to secure payments of deposits and interest to the board, by depositing in escrow securities to be approved by the board. Such securities to be of the kind and in the amount to be fixed by the board.

Section 1707. Heads of Departments, Offices and Agencies to Certify List of Employes.—The head of every department, office or agency shall certify to the board the names of all county employes of such department, office or agency, residence, age, nature of employment, time of entering employ, and the amount of compensation received by each, together with dismissals,

\* "and" omitted in original.

resignations or terminations of service; also, furnish such other relevant information as the board may require.

Section 1708. Compulsory Membership; Employes Payment Into Fund; Exceptions.—Each county employe shall be required to become a member of the county employes' retirement system within six months from the date of his or her employment. The county employe may elect to become a member of the retirement system at any time during the aforesaid six months period of time by notifying the head of the department, office or agency in which department, office or agency he or she is employed of the said election. A copy thereof shall be filed immediately with the board. He or she shall, each month, pay into the retirement fund five per centum of the amount received by him or her as compensation during the preceding calendar month. In no event shall any such employe pay an amount in excess of twenty-five dollars (\$25) per month. Such amount shall be collected by the county treasurer and by him paid into the retirement fund. The monthly payment shall not be paid by any person who was receiving a retirement allowance and is subsequently reemployed as a county \*employe, nor shall any county employe make the said monthly payment who is ineligible to receive a retirement allowance in accordance with the provisions of subsection (c) of section 1716 of this article.

Section 1709. Appropriation and Payment to Retirement Fund.—At their annual budget session, the county commissioners shall make such an appropriation as will enable them to pay, and there shall be paid out of county taxes and county institution district taxes, a sum of money, each month, which shall be equal to the amount paid into the retirement fund by the county employes during the preceding month in accordance with the provisions of section 1708 of this article.

Section 1710. Employes Entitled to Retirement Allowances.—(a) Every county employe who has reached the age of sixty years or upwards and who has to his or her credit a period of service of fifteen years but less than twenty years shall, upon application to the board, be retired from service, and shall thereafter receive, during life, a retirement allowance of one twentieth (1/20) of such amount as he or she may be entitled to receive in accordance with the provisions of subsection (a) of section 1712 of this article, for each year's service which such employe may have to his or her credit during the aforesaid period of time. The time spent in the employ of the county or county institution district need not necessarily have been continuous.

(b) Every county employe who has reached the age of sixty years or upwards and who shall have been a

\* "employ" in original.

county employe during a period of twenty or more years shall, upon application to the board, be retired from service, and shall thereafter receive, during life, a retirement allowance in accordance with the provisions of section 1712 of this article. The time spent in the employ of the county or county institution district need not necessarily have been continuous: Provided, That when any county employe has twenty or more years service, not necessarily continuous, and has reached the age of fifty years or upwards, and shall be separated from the service of the county or county institution district by reason of no cause or act of his or her own, upon application to the board he or she shall thereafter receive, during life, a retirement allowance in accordance with the provisions of section 1712 of this article.

(c) A person who became a county employe through the consolidation of a city institution district with a county institution district may have the period of his or her city employment credited as a county employe for all purposes under \*this article: Provided, That said person, between the twenty-second day of May, one thousand nine hundred forty-five, and the twenty-second day of May, one thousand nine hundred forty-six, shall have paid into the retirement fund the amount which he or she would have been required to pay into the said fund if such person had been a county employe from the date of his or her original employment with the city: And further, Provided, That the city by which the said person was formerly employed shall have paid into the retirement fund an amount equal to that paid into the said fund by the said person in accordance with the provisions of this article. If such county employe leaves the employ of the county institution district before he or she shall be entitled to receive the benefit of the retirement allowances, a refund of his or her contributions as paid into the retirement fund shall be made in accordance with the provisions of section 1714 of this article.

(d) Any county employe who, on and after the sixteenth day of September, one thousand nine hundred forty, has been employed by the county or county institution district for a period of six or more months, and who, on or subsequent to such date, shall have enlisted or been inducted into military service of the United States in time of war or national emergency, so proclaimed by the President or the Congress of the United States, or any police action in which the United States is engaged, shall have credited to his employment record, for retirement benefits, all of the time spent by him in such military service during the continuance of such war, national emergency or police action, if such person returns

\* "ths" in original.

or has heretofore returned to his employment within one year after his separation from military service and such payments as are required to be made by such county employe into the county employes' retirement fund shall be paid into such fund by the county or county institution district, upon application by such county employe for retirement benefits. Any county employe who has been in military service and returned to the employ of the county or county institution district shall, within one year after the effective date of this article, file with the board a record of the time spent by him in such military service. Any county employe who has been in military service prior to the effective date of this article and has made payments into the county employes' retirement fund to secure for his employment record credit for his military service shall be reimbursed to the full extent of such payments by the board.

Section 1711. Exceptions in Favor of Employes Totally and Permanently Disabled.—(a) Any county employe, except persons who are employed in accordance with the provisions of subsection (c) of this section and persons who are reemployed in accordance with the provisions of subsection (b) of section 1715, who has been in employ for a period of not less than fifteen years, may receive a retirement allowance in accordance with the provisions of section 1712 of this article, if he or she becomes totally and permanently disabled, except as a result solely of chronic alcoholism, even though such employe has not reached the age of sixty years, provided that proof of such total and permanent disability shall be by the sworn statement of three practicing physicians of the county designated by the board.

(b) Once each year, the board may require any former county employe, who is receiving a retirement allowance by reason of total and permanent disability, to undergo a medical examination by a physician or physicians designated by the board. Should such physician or physicians thereupon report and certify to the board that such former county employe is no longer totally and permanently disabled, or that such former county employe is able to engage in a gainful occupation, and should the board concur in such report, then the amount of the retirement allowance shall be reduced or discontinued, as the board may determine.

(c) No person entering the employ of the county or county institution district as a county employe after the effective date of this article, who has attained the age of fifty-five or more years at the time of such employment, shall be eligible to receive a retirement allowance by reason of total and permanent disability as herein provided.

## Section 1712. Amount of Retirement Allowances.—

(a) The retirement allowance paid under the provisions of this article shall equal fifty per centum of the amount which would constitute the average monthly compensation as received by the county employe during the last twenty-four months in which period of time the said employe made monthly contributions to the retirement fund prior to his or her retirement. No retirement allowance shall be computed on a monthly compensation in excess of five hundred dollars (\$500), nor shall a retirement allowance be paid for a fraction of a service year.

(b) Any person receiving a retirement allowance and is subsequently reemployed as a county employe, during the period of such reemployment his or her retirement allowance shall cease until subsequent retirement. In the case of persons reemployed prior to the first day of June, one thousand nine hundred fifty-three, and retiring at any time after the effective date of this act, the subsequent retirement allowance shall be at the rate he or she would have received had there been no previous retirement. In the case of persons reemployed after the thirty-first day of May, one thousand nine hundred fifty-three, the subsequent retirement allowance shall be the same as he or she received prior to his or \*her reemployment.

\*\* (c) Retirement allowance shall be paid in monthly installments on warrants of the board. No retirement allowance granted to any person who has heretofore retired or who shall hereafter retire shall be increased, decreased or revoked during the life of any such person, except as the board may decide in accordance with the provisions of subsection (b) of section 1711.

Section 1713. Retirement Allowances After Leaving Service.—(a) Any county employe who, after twenty or more years service and before attaining the age of fifty years, shall be separated from the service of the county or county institution district by reason of no cause or act of his or her own, if such employe continues to contribute to the retirement fund, monthly, a sum equal to the last monthly contribution paid while in employ, such former county employe shall, when he or she reaches the age of fifty years, be eligible to receive a retirement allowance.

(b) Any person who, after twenty or more years service as a county employe, retires voluntarily before reaching the age of sixty years, shall pay into the retirement fund, monthly, a sum equal to the last monthly contribution paid while in the employ of the county or county institution district until he or she reaches the age of sixty years, when such former county employe shall be entitled to a retirement allowance.

\* "here" in original.

\*\* "(d)" in original.

Section 1714. Refund of Contribution.—(a) Any person contributing monthly to the retirement fund who shall, for any cause, cease to be a county employe before he or she shall be eligible to receive the benefits of the retirement allowances, the total amount of the contributions paid into the retirement fund by such employe shall, upon demand in writing, be repaid to him or her, or, in the event of the death of any such employe, the amount of said contributions shall be paid to such person or persons as he or she shall have designated in writing, as filed with the board, as his or her beneficiary, or to his or her estate.

(b) If any former county employe receiving a retirement allowance shall die before he or she shall have received the total retirement allowance payments equal to the total amount of contributions as made by such former county employe to the retirement fund, the difference between the total of the retirement allowance payments and the total of the amount of contributions paid into the retirement fund by such former county employe shall be paid to such person or persons as he or she shall have designated in writing, as filed with the board, as his or her beneficiary, or to his or her estate.

Section 1715. Reinstatement and Requirements for Credit for Previous Service.—(a) No county employe shall be permitted to withdraw his or her contributions as paid into the retirement fund upon transfer from one office, department or agency to another. Any person who has ceased to be a county employe and has withdrawn his or her contributions as paid into the retirement fund, if such person has been reemployed by the county or county institution district prior to the effective date of this article and desires to be given credit for previous service as a county employe, he or she shall, within one year from the effective date of this article, make payment in full of the amount withdrawn, with interest at the legal rate, the said interest to be computed from the date of withdrawal to the date of repayment. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twelve or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such county employe shall make monthly payments in accordance with the provisions of section 1708.

(b) Any person who has heretofore or who hereafter ceases to be a county employe and withdraws his or her contributions as paid into the retirement fund, if such person is reemployed by the county or county institution

district and desires to be given credit for previous service as a county employe, he or she shall, within one year from the date of such reemployment, make payment in full of the amount withdrawn, with interest at the legal rate, the said interest to be computed from the date of withdrawal to the date of repayment. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twelve or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such county employe shall make monthly payments in accordance with the provisions of section 1708 of this article. No person reemployed as a county employe in accordance with this subsection shall be eligible to receive a retirement allowance by reason of total and permanent disability, in accordance with the provisions of section 1711, unless he or she shall be in employ for a period of not less than twenty years, which said period of employment shall include credit given for previous service, as herein provided.

(c) Any county employe who desires to be given credit for previous service in the employ of the county as an elected or appointed employe or official, where such service subsequent to the first day of January, one thousand nine hundred twenty-eight was rendered to the county at a time when such employe or official was not a member of the county employes retirement system, shall, within one year from the effective date of this article, make application to the board, and upon approval thereof shall pay into the retirement fund a sum equal to twice the payment which such employe would have made had such person been a member thereof and had the payments been made in accordance with the provision of this article. In addition thereto, interest at the legal rate shall be paid from the date when the said monthly payment would have been made. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twelve or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such county employe shall make monthly payments in accordance with the provisions of section 1708.

(d) Any person employed by any county correctional institution at the date such person became eligible for membership in the county employes retirement system,

who desires to be given credit for previous service in the employ of such institution when such employe was not eligible for membership, shall, within one year from the effective date of this article, make application to the board, and upon approval thereof shall pay into the retirement fund a sum equal to twice the payment which such employe would have made had such person been a member thereof and had the payments been made in accordance with the provisions of this article. In addition thereto, interest at the legal rate shall be paid from the date when the said monthly payment would have been made. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twelve or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such county employe shall make monthly payments in accordance with the provisions of section 1708.

Section 1716. Retirement Allowance Not Subject to Levy, Attachment or Assignment; Suspension of Retirement Allowances; Ineligibility.—(a) No retirement allowance shall be subject to levy, sale, execution, attachment, garnishment, or any other process whatsoever, and shall not be subject to assignment or transfer. It shall be exempt from any State or municipal tax.

(b) If any member of the retirement system is receiving a retirement allowance and he or she shall be employed by the Government of the United States, the Commonwealth of Pennsylvania or any political subdivision thereof, or the authorities of any federal, state, school, county, municipal, water, sewerage system, redevelopment, housing, airport, bridge, highway, parking, or any public agency or other similar organization, then the board shall suspend the retirement allowance to such member of the retirement system during such employment. Any such member who shall be employed as hereinbefore stated shall immediately report to the board the fact of such employment.

(c) No county employe who is receiving or is eligible to receive a pension or retirement allowance from the Government of the United States, except such persons who are receiving or eligible to receive a pension or retirement allowance from the said Government by reason of their military service, the Commonwealth of Pennsylvania or any political subdivision thereof shall be eligible to receive a retirement allowance from the county employes retirement system. Said county employe shall immediately report such fact to the board.

## Article XVIII

## Fees of Salaried County Officers; Salary Board

## (a) Fees of County Officers

Section 1801. Fees of Salaried County Officers to Belong to County.—All fees limited and appointed by law to be received by any county officer, either elected or appointed, or which they shall legally be authorized, required or entitled to charge or receive, shall belong to the county. Each of the said officers shall exact, collect and receive all such fees to and for the use of the county, except such taxes and fees as are levied by the Commonwealth, which shall be to and for the use of the Commonwealth. None of said officers shall receive for his own use or for any use or purpose whatever, except for the use of the proper county or for the Commonwealth, as the case may be, any fees for any official services whatsoever.

Section 1802. Books of Account to be Kept; Fees to be Paid to County Treasurer Monthly.—(a) Each of said officers shall keep a special account book, the form of which shall be prescribed by the controller, in which entry shall be made of all the moneys received for fees and of all moneys earned and chargeable upon the county, specifying the day and date, the title of the case, if any, for what service, and from whom received.

(b) On the first Monday of each month, each of said officers shall pay to the treasurer of the county all fees so received during the preceding month. Duplicate receipts therefor shall be taken, one of which he shall deposit with the county controller, together with a transcript, in detail, of his fee account book or books for the preceding month. He shall make oath or affirmation before the county controller that the transcript contains a true and correct list of all the fees received, earned or chargeable upon the county for services rendered in his office, either by himself, deputies or clerks, during the preceding month that said fees were severally charged and collected at regular rates, and that he has not received and is not to receive from any person or persons whatsoever, for any official services or duty, any other fees than those so entered on said transcript.

(c) It shall be the duty of the county controller to receive such returns and thereafter to audit and verify the same and to do such other matters and things as may be required in the premises, to file said receipt and transcript in the office, and to charge the county treasurer with the money for fees so paid in.

(d) Where fees are paid to one office which are for services rendered or to be rendered by another, the officer receiving the same shall specify the same on his

account book and on his transcript as of the office to which they properly belong.

Section 1803. Penalty for Receiving Gratuities or Percentages.—If any of the officers included in this subdivision shall receive or stipulate to receive from any deputy or clerk or from any person or persons awarded any contract for advertising or any other contract any sum or sums of money as percentage on the salaries of said deputy or clerk or on the amounts or profits of said contract, or any sum or sums of money whatsoever as compensation for making any of the said appointments or contracts, or shall neglect to render the accounts or to pay over the money received for fees as required by this subdivision, or shall wilfully neglect to make any proper entry in the book or books required to be kept, or shall wilfully neglect to charge for any official services the fees allowed by law, or shall take to his own use any such fees, or fail to comply with any of the provisions of this subdivision, or neglect to discharge any of the duties herein imposed, the same shall be deemed a misdemeanor in office, and, in addition to the other penalties for such offenses, he shall, upon conviction thereof, refund the said sum or sums of money thus unlawfully received, and shall be deemed incapable of holding longer the said office.

Section 1804. False Swearing to County Accounts, Bills or Transcripts.—Any officer included in this subdivision or any other person who shall wilfully swear or affirm falsely as to the accuracy of any account, transcript or bill required in this subdivision, or in making any affidavit in reference thereto, shall be deemed guilty of perjury, and, upon conviction thereof, shall be liable to the punishment prescribed by law for perjury; and any person who shall procure any other person to swear or affirm falsely in verifying any such account, transcript or bill, or in making any affidavit in reference thereto, shall be deemed guilty of subornation of perjury, and, upon conviction thereof, shall be liable to the punishment prescribed by law for that offense.

Section 1805. Officers Subject to This Subdivision to be Paid Salaries.—All county officers to which this subdivision applies, whether elected by the people or appointed according to law, and their several deputies and clerks, shall be paid for their services by fixed and specific salaries, which shall be a charge upon the treasury of the county to which each shall respectively belong, to the extent, except as hereinafter provided, of the fees collected and paid in by each officer respectively, or earned, where fees are chargeable upon the county treasury, and said salaries shall be paid semi-monthly or bi-weekly during the month in which the services

were rendered, at the discretion of the county commissioners. No warrant shall be drawn for the payment of any of said officer, his deputies or clerks who shall not have filed the receipt and transcript for that month provided for in this subdivision.

Section 1806. Salaries Payable from Fees.—All salaries fixed by law, except as may be otherwise provided for herein, shall be paid from the amounts paid into the county treasury from the respective offices, after ascertaining and deducting the amount due the deputies and clerks in each office. If there has not been a sum sufficient, from fees received and paid in or earned and due by the county for services rendered, to pay the full amount of the salary of any officer holding any of said offices, after deducting the amount due the deputies and clerks, such officer shall receive only such proportion of his salary as shall be equal to the aggregate of the net fees received and earned by him, as aforesaid, during his term of office during such month. If the fees in any subsequent month or months shall exceed the amount of the expense and salary aforesaid for such month, the deficit of such salary for such preceding month shall be made up from such excess.

Section 1807. Monthly Returns to be Made of Taxes and Fees Due the Commonwealth.—(a) At the same time that monthly returns are made, as required by section 1802 of this act, of the fees received by said officers to and for the use of the proper county for the preceding month, each of said officers shall make a separate return, to the Department of Revenue, of all taxes or fees collected or earned for the Commonwealth by him, if any. The amounts so returned by any of said officers, as received by him for the Commonwealth, shall be separately paid by him into the State Treasury through the Department of Revenue, quarterly, on the first Mondays of April, July, October and January, for which he shall take duplicate receipts.

(b) All commissions on the collection of any such taxes and fees for the Commonwealth shall be deemed and taken as part of the regular fees of the officer collecting the same and shall be accounted for accordingly.

Section 1808. Payment of Certain Officers.—The county solicitor, county jailor, county commissioners, county controller, county surveyor or engineer, county detectives, county treasurer, interpreter of courts, district attorney and his assistants shall severally be paid bi-weekly, semi-monthly, monthly, or quarterly, at the discretion of the county commissioners. They shall be paid the full amount allowed them by law, but all fees and emoluments whatsoever that may accrue to any of

them by virtue of his office shall be paid by him to the county treasurer as directed by law, and all other officers shall be paid the amounts assigned them only when the net receipts of their respective offices shall reach the amounts respectively fixed for them.

Section 1809. Salaries in Lieu of Fees.—Except to the extent this section may be inconsistent with any other express provision of this act, the salaries fixed and provided by law for county officers shall be in lieu of all or any moneys, fees, perquisites, or mileage expenses, and other allowances received or allowed to any such officer, and all such moneys, fees, perquisites, or mileage expenses, and other allowances, not governed by the aforesaid exceptions, shall belong to the county and shall be paid into the county treasury, except where required to be paid to the Commonwealth in the manner provided by this subdivision for fees.

Section 1810. Salaries of County Officers.—The annual salaries of the following county officers shall be as follows:

The sheriff, twelve thousand five hundred dollars (\$12,500).

The prothonotary, twelve thousand five hundred dollars (\$12,500).

The recorder of deeds, twelve thousand five hundred dollars (\$12,500).

The register of wills and clerk of the orphans' court, five thousand five hundred dollars (\$5,500).

The clerk of the court, twelve thousand five hundred dollars (\$12,500).

The treasurer, twelve thousand five hundred dollars (\$12,500).

The controller, twelve thousand five hundred dollars (\$12,500).

The coroner, twelve thousand five hundred dollars (\$12,500).

The district attorney, fourteen thousand dollars (\$14,000).

The chairman of the county commissioners, eighteen thousand five hundred dollars (\$18,500); the other county commissioners, fifteen thousand five hundred dollars (\$15,500) each.

Two elective jury commissioners, six thousand dollars (\$6,000) each.

#### (b) Salary Board

Section 1820. Salaries and Compensation.—The salaries and compensation of county officers shall be as now or hereafter fixed by law. The salaries and compensation of all appointed officers and employes who are paid from the county treasury shall be fixed by the salary board created by this act for such purposes.

Section 1821. Fees.—All county officers shall continue to charge and collect the fees, mileage and emoluments of office for their own use or for the use of the county, as provided by law, and where required by law, such fees, mileage and emoluments shall be paid to the county treasurer as and when required, and if no time of so paying be fixed as to any such fees, mileage or emoluments, then on or before the tenth day of each month.

Section 1822. Salary Boards Created.—There is hereby created in the county a salary board, which shall consist of the three individual members of the board of county commissioners and the county controller. The chairman of the board of county commissioners shall be chairman of the salary board and the county controller secretary thereof. The board shall meet and organize on the first Monday of January of each year.

Section 1823. Number and Compensation of Officers, Deputies, Assistants, Clerks and Employes.—The board, subject to limitations imposed by law, shall fix the compensation of all appointed county officers, and the number and compensation of all deputies, assistants, clerks and other persons whose compensation is paid out of the county treasury, and of all court criers, tipstaves and other court employes, and of all officers, clerks, stenographers and employes appointed by the judges of any court and who are paid from the county treasury.

Section 1824. Revisions of Salary Schedules.—At each annual meeting, the board shall revise the salary schedule so far as it shall deem such action necessary. From time to time between annual meetings, whenever required by any judge, county officer or executive head of any separate board, commission or division, the number or compensation of whose deputies, assistants, clerks and employes is sought to be fixed, the board shall meet and consider and shall fix and determine the same. All salaries fixed under the provisions of this act shall be paid out of the county treasury.

Section 1825. Procedure and Action of Board.—(a) Except as herein otherwise provided, whenever the board shall consider the number or salaries of the deputies or other employes of any county officer or agency, such officer or the executive head of such agency shall sit as a member of the board, as long as any matter affecting his office or agency is under consideration and no longer.

(b) Whenever the board shall consider the number or salaries of the court criers or tipstaves or other court employes, the president judge of the court shall sit as a member of the board, as long as any matter affecting the court criers, tipstaves or employes of his court is under consideration and no longer.

(c) Whenever the board shall consider the number or salaries of the officers or employes appointed by any judge of any court, such judge shall sit as a member of the board, as long as any matter affecting any of his appointees is under consideration and no longer.

(d) Whenever the board shall consider the number or salaries of the employes of the prison board, the president judge of the court of common pleas shall sit as a member of the board, and the board so constituted shall fix the number and salaries of such employes, notwithstanding any general, local or special law to the contrary.

(e) The decisions of a majority shall govern. Each board shall keep a correct minute book of its proceedings in all cases heard and determined by it. Such minute book shall be a public record.

## Article XIX

### Fiscal Affairs

#### (a) Fiscal Policy and Systems

Section 1901. Functions of the Controller.—The controller shall have a general supervision and control of the fiscal affairs of the county and of the accounts and official acts of all officers or other persons who shall collect, receive or distribute the public moneys of the county, or who shall be charged with the management or custody thereof. He may at any time require from any of them, in writing, an account of all moneys or property which may have come into their control. He shall, immediately on the discovery of any default or delinquency, report the same to the commissioners and the court of common pleas of the county, and shall take immediate measures to secure the public moneys or property and remove the delinquent party, if in office and not removed by the commissioners.

Section 1902. Accounts of Officers.—The controller shall furnish the commissioners of the county, whenever required by them, a detailed account of any officer or other person having in his possession or under his control funds belonging to the county, and shall, during regular office hours, give information respecting any of said accounts to any taxpayer of the county demanding the same.

He shall have power and authority to require each and every county officer to make a quarterly statement with respect to moneys in his possession or control as a county officer, showing the amount of cash on hand and the amount deposited in banks, banking institutions and trust companies, together with the names of such institutions. He shall have power to examine every such account

of a county officer in any bank, banking institution or trust company, to verify the accuracy of the statement of such county officer. It shall be the duty of every such bank, banking institution or trust company, its officers and agents, to furnish full information to the controller in relation to the account of such county officer. No bank, banking institution or trust company, its officers or agents, shall be subject to prosecution under other laws of this Commonwealth for disclosing any such information with respect to any account of a county officer.

Section 1903. Custody of Valuable Documents.—The controller shall have the custody of all title deeds to real estate owned by the county, and of all contracts entered into by or on behalf of the county, and of all books, documents and papers relating to its financial affairs, and of all bonds and other obligations issued by the county, when paid. Such bonds and other obligations, when so paid, shall be distinctly cancelled by the controller and carefully and regularly filed, a register of which cancellation shall be kept by him in a book to be provided for that purpose.

Section 1904. Books of Fiscal Affairs.—The controller shall keep a full and regular set of books in detail, by double entry, of all the fiscal operations of the county, embracing as many accounts, under appropriate titles, as may be necessary to show distinctly and separately all the property of the county, its receipts and expenditures, and all debts and accounts due by the county officers or others, and the amount raised from each source of revenue, and the expenditures in detail, and classified by reference to the objects thereof. He shall prescribe the form and manner of keeping the books and papers used by each of the officers of the county in connection with the fiscal affairs of the county. Where the controller prescribes a new system of accounting as to the fiscal affairs of the county offices, it shall be subject to the approval of the county commissioners.

(b) Accounts, Audits and Reports by Controller

Section 1920. Controller's Settlement of Accounts; Report to Common Pleas; Publications; Financial Report to Department of Internal Affairs.—The controller shall, at the end of each fiscal year, complete the audit, settlement and adjustment of the accounts of all county officers. He shall, in the month of January in every year, make a report, verified by oath or affirmation, to the court of common pleas of said county, of all receipts and expenditures of the county for the preceding year, in detail, and classified by reference to the object thereof, together with a full statement of the financial conditions of the county. Such report shall thereupon be published

one time in such newspapers published in the county as the controller may direct, but the aggregate cost thereof shall not exceed two thousand dollars (\$2000) in any one year, to be paid for out of the county treasury. Such report may also be published in printed pamphlets, at the cost of the county, the number and cost of such pamphlets to be determined by the controller and the county commissioners. The controller shall also, within sixty days after the close of the fiscal year, make an annual report to the Department of Internal Affairs of the financial condition of the county, on forms furnished by the Secretary of Internal Affairs, and subject to the penalties provided in section 1921 of this act for the controller refusing or neglecting to make similar reports.

Section 1921. Penalties.—Any controller refusing or wilfully neglecting to file the report required by section 1920 of this act 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 (\$5.00) for each day's delay beyond said sixty days and costs. All fines recovered shall be for the use of the Commonwealth.

Section 1922. Audit of the Accounts of Parole and Probation Officers and of Appropriations to National Guard Units.—It shall be the duty of the controller to audit, settle and adjust the accounts of every parole and probation officer, appointed by the court pursuant to law, who shall receive from any person or persons moneys paid under any order, sentence or judgment of any court, and to report the results of such audits to the court which shall have appointed such officer. The controller shall prescribe the system of accounting to be used by the parole and probation officer, and shall likewise audit, settle and adjust the accounts of any moneys appropriated by the county to units of the National Guard.

Section 1923. Accounts and Audits of Moneys Collected for Taxing Units Within the County; Payments.—All taxes, penalties, fines and costs collected by the county treasurer and belonging to any city, borough, township, school district or institution district shall be entered and carried in the books of the county in the same manner as county moneys. It shall be audited in like manner, and when paid to the taxing district entitled thereto, as provided by law, such payments shall be made on warrants in the same manner as payments are made of county moneys.

Section 1924. Audit of Accounts of Commonwealth Moneys.—It shall also be the duty of the controller to audit, settle and adjust the accounts of the county treasurer with the State Treasury, and of each of such other officers in the county receiving money for the use of the

Commonwealth, and where the county has a financial interest, as may be referred to them by the Auditor General or the Department of Revenue, and to make a separate report thereof to the court of common pleas, together with a statement of the balances due from or to such treasurer or other officer. A certified copy of such report shall be transmitted to the Auditor General or Department of Revenue, as the case may be, within ten days after the same is prepared.

Section 1925. Power of Subpoena and Attachment.—The controller shall have power to issue subpoenas to obtain the attendance of the officers whose accounts they are required to adjust, their executors and administrators, and of any person whom it may be necessary to examine as witnesses, and to compel their attendance by attachment, in like manner and to the same extent as any court of common pleas of this State may or can do in cases pending before them, and also to compel in like manner the production of all books, vouchers and papers relative to such accounts. Such subpoena and attachment shall be served and executed by the sheriff or coroner of the county, as the case may require.

Section 1926. Power to Administer Oaths.—The controller shall have power to administer oaths and affirmations to all persons brought or appearing before him, whether accountants, witnesses or otherwise, and all persons swearing or affirming falsely on such examination shall be guilty of perjury.

Section 1927. Commitment to County Jail.—If any person appearing before the controller for examination shall refuse to take oath or affirmation, or after having been sworn or affirmed shall refuse to make answer to such questions as shall be put to him by the controller touching the public accounts or the official conduct of any public officers, such persons so refusing may be committed by the controller to the county jail by warrant under his hand and seal, directed to the sheriff or any constable of the county, setting forth particularly the causes of such commitment, until he shall submit to be sworn or affirmed or to make answers to such questions or be otherwise legally discharged.

Section 1928. Witness Fees.—Witnesses attending before the controller shall receive the same allowance as is received by witnesses attending before the courts of this Commonwealth. Such allowance shall be paid out of the county treasury, and where final judgment is given against any officer whose accounts are settled by the controller, shall be included in the costs assessed against such officer.

Section 1929. Settlement of Accounts on Extraneous Proof.—If any person in possession of books, vouchers

or papers relative to public accounts before the controller shall refuse to produce the same, or if any officer whose accounts are to be settled and adjusted by the controller shall refuse to attend or submit to examination, the controller shall proceed, by the examination of witnesses and other evidence, to ascertain and settle, as near as may be, the amount of public money received by such officer and its application to public purposes or otherwise.

Section 1930. Filing Reports.—The reports of the controller shall be filed among the records of the court of common pleas of the county, and from the time of such filing shall have the effect of a judgment against the real estate of the officer who shall thereby appear to be indebted either to the Commonwealth or to the county.

Section 1931. Appeals from Reports.—An appeal may be taken from such reports to the court of common pleas, either by the Commonwealth, the county or the officer. Such appeal may also be taken by ten or more taxpayers in behalf of the county, in the manner and subject to the restrictions provided by article thirty of this act.

Such appeal shall be entered by the Commonwealth within four months, and by the county and the officer within sixty days after the filing of the report. If the officer is the appellant, he shall enter into a recognizance with two sufficient sureties in double the sum found due by such report, with condition to prosecute the appeal with effect and to pay the costs and such sum of money as shall appear on the final determination of the appeal to be due from him.

Section 1932. Form of Issue on Appeals.—The \*court of common pleas shall direct the form in which the issues shall be entered in all appeals from the reports of the county controller. Such issues shall be tried by a jury, or may be submitted to reference and arbitration in the manner and subject to the proceedings provided by law.

Section 1933. Allowance of Counsel Fees.—When an appeal is taken from the controller's reports and such appeal results favorably to the appellants in such a manner that money is recovered for the county, the court hearing such appeal shall make an order to pay a counsel fee which it deems just and reasonable to the counsel representing such appeal, out of the funds so recovered.

Section 1934. Payment of Costs on Appeal.—In case the appellant or appellants do not recover final judgment in court more favorable to him or them than the report of the controller, he or they shall pay all costs that may accrue on his or their appeal, but if he or they should recover in court a final judgment more favorable than the report of the controller, then the appellee or appellees shall pay the costs that may accrue on such appeal.

\* "courts" in original.

Section 1935. Appeals to the Superior or Supreme Court.—In all appeals from settlements or reports made by the county controller, it shall be lawful for any party to except to any ruling or decision of the court upon any question or point of law that may arise, and an appeal may be taken therefrom \*to the Superior or Supreme Court as in other cases.

In no case shall the controller be personally liable for the costs of any such appeal. If the final decision of the Superior or Supreme Court is adverse to the surcharged officer or officers, he or they shall each be individually liable for all the costs of such appeal. If such final decision shall be in favor of such surcharged officer or officers, the county shall pay the costs of such appeal.

Section 1936. Execution.—If no appeal is entered, or if an appeal is entered and no security given as herein required, or if upon such appeal judgment is given in favor of the Commonwealth or the county, execution shall issue against the property or person of the defaulting officer in like manner as upon judgment recovered in the usual course of law.

Section 1937. Fines and Forfeited Recognizances.—All fines forfeited, recognizances and other forfeitures imposed, lost or forfeited in any court, except such as are directed to be paid into the State Treasury under the provisions of law or such as are collected for the violation of any ordinance, shall, by the clerk of such court, be certified and estreated into the office of the commissioners of the county, within ten days after the expiration of the term at which such fines and forfeitures were imposed, together with the judgments and orders of the court on all forfeited recognizances sued upon in such court. Such estreats or returns of fines and forfeitures shall be under oath or affirmation of the clerk. All sums of moneys collected in pursuance thereof shall be paid to the county treasurer for the use of the county. It shall be the duty of the commissioners to superintend the collections of said sums of money. The accounts thereof shall be annually settled by the county controller. Nothing herein contained shall impair the right of the respective Courts to moderate or remit forfeited recognizances as heretofore.

Section 1938. Repayment of Money Collected or Forfeited Recognizances.—In all cases where the county commissioners have collected any money upon any forfeited recognizance duly estreated to the county commissioners, and where the defendant in such case subsequently surrenders himself or herself to the jurisdiction of the court, the county commissioners may, with the consent of the district attorney, repay to the party from whom such money was collected the amount so collected

\* "to" omitted in original.

on such forfeited recognizance, exclusive of all costs and expenses paid or incurred by the county in such proceeding.

(c) Disbursals of County Moneys

Section 1950. Claims Against County.—The controller shall scrutinize, audit and decide on all bills, claims and demands whatsoever against the county. All persons having such claims shall first present the same to the controller and, if required, make oath or affirmation before him to the correctness thereof. The controller may, if he deems it necessary, require evidence, by oath or affirmation, of the claimant and otherwise that the claim is legally due and that the supplies or services for which payment is claimed have been furnished or performed under legal authority. He may inquire or ascertain whether any officer or agent of the county is interested in the contract under which any claim may arise, or has received or is to receive any commission, consideration or gratuity relating thereto, or whether there has been any evasion of the provisions of this act by making two or more contracts for small amounts which should have been in one. If he shall find that there has been any evasion, or that any such officer or agent is so interested, he shall refuse to approve the claim. All claims which he shall find legally due, he shall certify to the commissioners.

Section 1951. Drawing Warrants.—The commissioners shall draw no warrant on the treasury for any debt, claim or demand whatsoever not audited and approved by the controller, as provided for in the foregoing section, except for the fees of jurors, witnesses, criers and tipstaves of the several courts of the county. The amount of said fees shall be ascertained by said courts and entered on the records thereof and duly certified by their respective clerks to the commissioners, being first sworn to before the controller. Said certificate shall be delivered by the commissioners to the controller for preservation as soon as the warrants are issued.

Section 1952. Warrants; Reports on Financial Condition.—All warrants drawn on the county treasury by the commissioners shall be countersigned by the controller, who shall keep a correct register thereof, noting the number, date and amount of each, the date of payment, and to whom and for what issued. The controller shall report to the commissioners monthly, or oftener if required by them, the amount of outstanding warrants registered and the amount of money in the treasury.

Section 1953. Payment of County Moneys.—The treasurer shall pay no money out of the county treasury except on warrants drawn by a majority of the commissioners and countersigned by the controller. He shall cancel all warrants, when paid, by distinctly spearing

or cutting them, and shall deliver such warrants to the controller who shall also cancel the same. He shall report daily to the controller all moneys paid out by him, giving the number of the warrant and the party to whom paid.

All outstanding warrants issued before the controller enters upon the duties of his office shall be presented to him as other claims against the county.

Section 1954. Additional Clerk to Countersign Warrants.—The county controller may designate, in addition to the chief clerk, any clerk in his office to countersign warrants when properly drawn on the county treasurer, whenever, in the opinion of any such controller, it is necessary so to do for the public convenience. Warrants so countersigned by such clerk shall be honored by the county treasurer, with the same force and effect as if countersigned by the county controller or his chief clerk, during the period designated in writing to such county treasurer by the said county controller.

#### (d) County Treasury and County Depositories

Section 1960. Duty of Treasurer; Receipts of Money for the County.—The county treasurer shall receive all moneys due or accruing to the county. He shall keep a just and true account of all moneys received and disbursed. The books of the treasurer shall at all times during office hours be open to the inspection of the controller. He shall report daily to the controller all moneys received by him for the county, the person by whom, and on what account they were paid. The treasurer shall give his receipt for all moneys paid into the county treasury. Such receipts shall be countersigned by the controller, who shall keep an accurate record of the same.

Section 1961. Board to Select Depositories.—The commissioners, controller and treasurer of the county shall be a board for the purpose of selecting depositories for the funds of the county. For the purpose of voting at their meetings, the county commissioners shall each have one vote, the controller one vote, and the treasurer one vote. The majority of said vote present at any meeting shall be sufficient to enable the board to transact its business.

Section 1962. Meeting; Number of Depositories.—The board shall meet at the office of the county controller not later than noon of the third Wednesday after the first Monday of January following the election of the county treasurer, and thereafter as may be necessary, and shall there decide upon the number of banks and banking institutions, not less than three in number, as depositories of county funds, for such period of time as the board may determine, but not to exceed the term for which the treasurer is elected.

**Section 1963. Designation and Qualification of Depositories.**—At said meeting or at any subsequent meeting agreed upon, said board shall designate the depositories and the rate of interest to be paid by them to the county.

Depositories so designated shall, upon receipt of notice of their selection as a depository of county funds, furnish collateral to secure payment of deposits and interest to the county by depositing in escrow securities to be approved by the board. Such securities shall be of the kind and in the amount to be fixed by the board. Substitution of such securities may be made with the approval of the board in each case. The board may designate a branch bank of the Federal Reserve Bank of the district, located within the county, as escrow agent for the keeping of securities and to perform such functions as the board may prescribe.

The county treasurer, upon the designation of such depository or depositories, shall immediately transfer thereto all county funds, and shall thereafter keep such deposits solely in such depository or depositories, in the name of the county.

(e) **County Taxation, Borrowing and Transfer of Funds**

**Section 1970. Tax Levies.**—No tax shall be levied on personal property taxable for county purposes where the rate of taxation thereon is fixed by law other than at the rate so fixed. The county commissioners shall fix, by resolution, the rate of taxation for each year. No tax for general county purposes, exclusive of the requirements for the payment of the interest and principal of the funded debt of any county, shall in any one year exceed the rate of ten mills on every dollar of the adjusted valuation. In fixing the rate of taxation, the county commissioners, if the rate is fixed in mills, shall also include in the resolution a statement expressing the rate of taxation in dollars and cents on each one hundred dollars of assessed valuation of taxable property.

**Section 1971. Temporary Loans.**—Whenever the funds of a county have been exhausted, the county commissioners may borrow, on the credit of the county, money in anticipation of taxes to be collected for the current fiscal year, and issue a certificate of indebtedness payable on a certain date, not exceeding one year from the date of issue.

**Section 1972. Transfer of Certain Moneys into the County Fund.**—The commissioners may transfer into the county fund any money placed to the credit of any city, borough or township, where the same has been paid into the county treasury upon any duplicate for taxes

and has remained during a period of ten years uncalled for by the authorities of the city, borough or township to whose credit it may have been placed, and the right to said money is not at the time of such transfer a matter of litigation or dispute.

Section 1973. Transfer of Funds.—Whenever the county has available, in any special or appropriation funds other than a sinking fund, moneys for which there is no immediate use, and another special or appropriation fund has immediate and advantageous use for moneys which such fund lacks but the procedure for the securing of which has been consummated, the county commissioners shall have power, by resolution, with the approval of the controller of such county, to temporarily transfer moneys from one special or appropriation fund wherein such moneys are not at the time required to a fund where such moneys can be so advantageously used and expended. Moneys so transferred shall be returned to the fund from which borrowed as soon as sufficient moneys are accumulated in the borrowing fund from authorized sources, except in the case of moneys raised by taxation which are transferred from one budget fund to a similar fund which derives its moneys from taxation, in which cases no such transfer shall be required.

Section 1974. Banks Authorized to Receive Taxes.—The board for the selection of depositories shall have authority to designate any bank, savings bank, bank and trust company, trust company or national banking association located within the county as a deputy county tax collector, for the sole purpose, however, of receiving and receipting for county taxes paid to it at its place of business. The county tax collector shall not be held responsible for losses occasioned by the failure of any such institution, for moneys received by it as such deputy. Each such institution acting as a deputy county tax collector shall, within five days after the last day of each calendar month, transmit to the county tax collector all moneys received by it as such deputy during such preceding month. Each such payment shall be accompanied by an itemized statement showing what taxes have been paid, the dates when paid, and by whom they have been paid. Such an institution shall not be allowed any compensation or commission for acting as such deputy other than expenses actually incurred in transmitting moneys and records of payments to the county tax collector.

Every such institution, before entering upon its duties of receiving and receipting for taxes, shall post such security, in such amount as shall be determined by the board, to insure the faithful performance of its duties and the payment over of all tax moneys received by it.

## (f) Budgets

Section 1980. Fiscal Year; Preparation of Annual Budget.—The fiscal year of the county shall begin on the first day of January and end on the thirty-first day of December of each year. On or before the first day of February of each year and at least thirty days prior to the adoption of the annual budget, the controller shall transmit to the commissioners a proposed budget giving a detailed estimate of and for the legitimate purposes of the county for the current year, including interest due and to fall due on all lawful debts of the county bearing interest. Such budget, when finally adopted by the commissioners, shall be the guide to the commissioners in fixing the tax rate. Said budget shall be prepared as provided herein.

The commissioners shall, at the same time the budget is adopted, fix such rate of taxation upon the valuation of the property taxable for county purposes as will raise sufficient sum to meet the said expenditures. The commissioners shall not, by contract or otherwise, increase the expenditures of the county in any year to an amount beyond the taxes assessed as aforesaid for said year.

Section 1981. Annual Budget; Control of Expenditures.—(a) The controller shall annually prepare a proposed budget for all funds for the next fiscal year, at least thirty days prior to the adoption of the budget. Said budget shall reflect, as nearly as possible, the estimated revenues and expenditures of the county 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 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. Said budget shall be prepared on forms furnished as provided herein. Final action shall not be taken on the proposed budget by the county commissioners until after at least ten days public notice. The proposed budget shall be published or otherwise made available for public inspection, by all persons who may interest themselves, at least twenty days prior to the date set for the adoption of the budget. The county commissioners shall, after making such revisions and changes therein as appear advisable, adopt the budget and necessary appropriation measures required to put it into effect.

(b) Within fifteen days after the adoption of the budget, the county commissioners shall file a copy of the same in the office of the Department of Internal Affairs.

(c) The county commissioners may at any time, by resolution, make supplemental appropriations for any lawful purpose from any funds on hand or estimated to be received within the fiscal year and not otherwise appropriated, including the proceeds of any borrowing now or hereafter authorized by law.

(d) The county commissioners shall have power to authorize the transfer, within the same fund, of any unencumbered balance or any portion thereof from one spending agency to another, but such action shall be taken only during the last nine months of the fiscal year.

(e) No work shall be hired to be done, no materials purchased, no contracts made, and no order issued for the payment of any moneys by the county commissioners, which will cause the sums appropriated to be exceeded.

Section 1982. Committee to Prepare Uniform Forms.

—(a) The budget and report forms specified herein shall be prepared by a committee consisting of three representatives from the Pennsylvania State Association of County Commissioners, three representatives from the Pennsylvania State Association of County Controllers, and the Secretary of Internal Affairs or his agent, who shall be a person trained in the field of municipal finance.

(b) Such representatives shall be appointed by the president of each said organization. The president of each said organization shall supply to the Department 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.

(c) In preparing the uniform forms for both budgets and annual reports, the committee shall give careful consideration to the differing legal requirements and needs of the counties of the several classes, producing, if necessary, separate forms for certain classes of counties or groups of classes.

(d) 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. Should said committee 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 commissioners, controller or auditors of each county.

(g) Sinking Fund Commission

Section 1990. Membership.—In the county there shall be a sinking fund commission, composed of the commissioners, the controller and treasurer.

Section 1991. Management of Sinking Funds.—The sinking fund commission shall annually apply all interest received on sinking fund deposits and all interest received on bonds held in the sinking fund and all other income, if any, from the sinking fund, for the purpose of reducing the amount of money required to be paid by the county for sinking fund purposes for the ensuing year, unless such income is necessary for the purpose of having adequate funds on hand to pay the bonds of the county as they mature and become payable. The income so applied and the amount required to be paid by the county for sinking fund purposes shall annually equal the full amount required to be paid for sinking fund purposes to the several sinking funds.

The commission shall have the power, whenever it deems it necessary and for the best interests of the several sinking funds, to sell any bonds held by it other than those of the county itself.

Section 1992. Bonds of County Held by Commission.—All bonds of the county held by the sinking fund commission shall be stamped in a conspicuous manner to show that they have been purchased for this purpose. They shall never be reissued or sold. The sinking fund commission shall not require the county to pay interest on any of its bonds held by the commission, unless the commission deems the payment thereof necessary for the purpose of having adequate funds on hand to pay the bonds of said county as they mature and become payable. All bonds of the county held by the commission shall be cancelled immediately upon their maturity.

Section 1993. Paying Off and Cancelling of County Bonds; Priority; Sale of County Bonds in Certain Cases.—In order to facilitate the extinguishment of the county debt, the county bonds purchased by the commission from time to time shall be paid off and cancelled according to the priority of their maturity. The commission may, at its discretion, withhold the purchase of such maturing county bonds until after those purchased from a later issue of county bonds shall be paid off and cancelled. In such an event, if it appears that there will not be sufficient funds in the hands of the commission to meet the payment of such earlier maturing bonds, the same shall then be sold by said commission at not less than par.

Section 1994. Investment in New County Bonds.—Whenever any new bonds shall be issued by the county, the commission may invest the uninvested \*balances in its sinking fund, except so much as may be required for the payment of any bonds that may mature during the fiscal year in which such new bonds are issued and which the commission may desire to cancel and not to sell.

Section 1995. Deposits of Money Received; Interest.—All moneys received by the commission at any time shall immediately be deposited in one or more banks or banking institutions which are now or hereafter shall be designated as county depositories. The rate of interest to be paid by depositories to the commission shall be the highest rate obtainable, calculated on daily balances. The commission may reinvest said interest with the other income from the bonds in their possession.

#### (h) Sale of Revenue Bills

Section 1997. Sale of Revenue Bills Authorized; Terms and Conditions; Redeemability.—(a) The county shall have power, by ordinance or resolution, to provide for the issue and sale, during any fiscal year, of revenue bills, which bills may be issued at a discount, if purchased in advance of the due date of the taxes for such fiscal year, or at face, if purchased after the due date of such taxes. The discount allowed on such revenue bills shall not exceed five per centum, and the discounts on such bills shall vary according to the date at which the same are purchased.

(b) Such revenue bills shall be issued in multiples of ten dollars (\$10) each, and shall be issued only for the fiscal year during which they are sold. The total issue of revenue bills in any fiscal year shall not exceed the amount of taxes levied or to be levied for that fiscal year, including any special taxes. Such revenue bills shall be negotiable by the holder thereof.

(c) The revenue bills issued and sold in any fiscal year shall not be redeemable by the county in money, but shall be used by the holder thereof only for the payment of taxes due the county for the year for which such revenue bills were issued, and shall be received by the collector or receiver of taxes \*\*or any other person authorized to receive payment of taxes for the county at face value in payment of any taxes for such fiscal year, or any penalties, interest or costs due thereon. Such revenue bills may be received in payment of taxes at any time, so long as they shall be credited against any taxes due the county for the year for which they were issued and sold.

\* "balance" in original.

\*\* "or" in original.

## Article XX

## Contracts

Section 2001. County Commissioners to Make Contracts.—The County Commissioners may make contracts • for lawful purposes and for the purposes of carrying into execution the provisions of this section and the laws of the Commonwealth.

(a) All contracts or purchases in excess of five hundred dollars (\$500) shall be in writing and, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder meeting specifications, after due notice in at least one newspaper of general circulation, published or circulating in the county at least three (3) times, at intervals of not less than three (3) days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed, then the notice shall be published once a week for two (2) successive weeks. The first advertisement shall be published not less than ten (10) days prior to the date fixed for the opening of bids.

(b) The acceptance of bids shall only be made by public announcement at the meeting at which bids are received or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at any subsequent meeting, if at least five (5) days notice thereof shall be published in the newspaper aforesaid.

(c) The successful bidder, when advertising is required herein, shall be required to furnish a bond with suitable reasonable requirements guaranteeing performance of the contract, with sufficient surety in the amount of fifty per centum (50%) of the amount of the contract, within twenty (20) days after the contract has been awarded, unless the commissioners shall prescribe a shorter period of not less than ten (10) days, and upon failure to furnish such bond within such time, the previous awards shall be void. Deliveries, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein.

(d) The contracts or purchases made by the commissioners involving an expenditure of over five hundred dollars (\$500) 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: Provided, That they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by the county commissioners as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by the county through its own employes: Provided, 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 the county commissioners, which are patented and manufactured products 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.

## Article XXI

### Special Powers and Duties of the County

#### (a) Appropriations for Military Purposes

Section 2101. Appropriation of Money or Land for National Guard Armories.—(a) The board of commissioners may, either independently or in connection with any other county or with any city, town, borough or township, provide and appropriate moneys, or convey land to the Commonwealth of Pennsylvania, to assist the Armory Board of the State of Pennsylvania in the erection, wherever deemed most advantageous by the Armory Board, of armories for the use of the National Guard of Pennsylvania. The board of commissioners may acquire land for such purpose, either by purchase at tax sale, by gift, by the right of eminent domain, or otherwise.

(b) The board of commissioners may also furnish water, light or fuel, either or all, free of cost to the Commonwealth of Pennsylvania, for use in any armory of the National Guard, and may do all things necessary to accomplish such purpose.

Section 2102. Appropriation for Maintenance of National Guard.—(a) The board of commissioners may appropriate, annually, from any moneys in the county treasury not otherwise appropriated, a sum not exceeding seven hundred and fifty dollars (\$750) for the sup-

port 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 (\$1500) for the support and maintenance, discipline and training 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.

(b) Any moneys so appropriated shall be paid by warrant of the commissioners, drawn to the order of the commanding officer of such company, battalion, regiment or similar organization, only when it shall be certified to the commissioners by the Adjutant General of the State that such unit or units 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 proper vouchers to the county, 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.

(c) The accounts of such expenditures shall be subject to the inspection of the Department of Military Affairs, and shall be audited by the controller in the manner provided by law for the audit of accounts of county moneys.

Section 2103. Appropriation to Rifle Clubs in Time of War.—(a) At any time a state of war exists, the board of commissioners may appropriate money to civilian rifle clubs, duly chartered by the National Rifle Association of the United States of America, for the maintenance and rental of rifle-ranges, the employment of competent instructors and necessary employes, and for the equipment and uniforms for the members of such clubs who volunteer for special military duty in the county or answer any call of the Governor of the Commonwealth.

(b) No moneys shall be appropriated to any such club unless practice on such rifle-range by the members of the club shall be with the United States military rifle or arms approved by the State Adjutant General.

(b) Burial of Deceased Service Persons and Widows

Section 2108. Definitions.—(a) The term “deceased service person” as used in this subdivision shall mean and include:

(1) Any deceased person who, at the time of his or her death, was serving (whether or not in a combat zone)

in the Army, Navy, Air Force, Marine Corps, Coast Guard, or any women's organization officially connected therewith, during any war in which the United States has been, is now, or shall hereafter be engaged, or who, at the time of his or her death, was serving in a zone where a campaign or state or condition of war then existed, in which the United States was, is, or shall be a participant. The existence of a campaign or state or condition of war and the participation of the United States therein, as well as the fact that the deceased person served in a zone where such campaign or state or condition of war existed, shall, in each case, be established by the records of the Department of Defense of the Federal Government; or

(2) Any deceased person who had so served at any time during his or her life, and whose separation from such service was honorable, whether by discharge or otherwise, or who, at the time of his or her death, was continuing in such service after the cessation of the war, campaign or state or condition of war during or in which he or she served; or

(3) Any deceased person who was in active service in the militia of the State of Pennsylvania under and in pursuance of any proclamation issued by the Governor during the Civil War, who was not duly mustered into the service of the United States, but was honorably discharged or relieved from such service.

(b) The term "legal residence," as used in this subdivision, shall be construed as synonymous with "domicile," and is hereby defined as actual residence, coupled with intention that it shall be permanent, or a residence presently fixed with no definite intention of changing it or of returning to a former residence at some future period. Legal residence is to be determined by abode of person and his or her intention to abandon his or her former domicile and establish a new one. The legal residence of a deceased service person shall be prima facie in the county where he or she made his or her abode at the time of his or her death.

Section 2109. Funeral Expenses of Deceased Service Persons.—(a) The county commissioners of the county are hereby authorized and directed to contribute the sum of seventy-five dollars (\$75) towards the funeral expenses of each deceased service person in the cases enumerated below, where in each case application therefor is made within one year after the date of his or her death, and where the total expenses of the funeral does not exceed six hundred dollars (\$600). In the case of any deceased service person who died while in the service, application need not be made within one year after the date of his or her death, but may be made at any time thereafter.

## LAWS OF PENNSYLVANIA,

(b) Payments shall be made under the following circumstances:

(1) Where the deceased service person, at the time of his or her death, had his or her legal residence in the county, whether or not he or she died in the county and whether or not he or she was buried in the county. It is hereby declared to be the intent of the General Assembly that every deceased service person having a legal residence in this Commonwealth at the time of his or her death shall be entitled to the benefits of this section, regardless of where he or she may have died or where he or she may be buried, and that the liability therefor shall be on the county where the deceased service person shall have had his or her legal residence at the time of his or her death.

(2) Where the deceased service person died and was buried in the county, but at the time of his or her death did not have a legal residence within this Commonwealth, if the county commissioners of the county where he or she died are notified in writing by any organization of veterans that the body is unclaimed by relatives or friends and upon investigation shall find such condition to exist.

(3) Where a deceased service person has died while a member of the Pennsylvania Soldiers' and Sailors' Home at Erie, Pennsylvania, and such home incurs all funeral expenses and buries the soldier in a cemetery in the City of Erie, Pennsylvania, or the home furnishes clothing, casket and shipping case and ships the body to the county from which he was admitted to the home, the county from which he was admitted shall reimburse and pay to the Pennsylvania Soldiers' and Sailors' Home the amount of seventy-five dollars (\$75), or so much thereof as was actually expended by the home.

Section 2110. Burial of Widows of Deceased Service Persons.—Upon due application and proof, the county commissioners of the county are hereby authorized and directed to contribute the sum of seventy-five dollars (\$75) from the county funds towards the funeral expenses of any widow of any male deceased service person who, at the time of her death, had a legal residence in the county, whether or not she died in the county and whether or not she was buried in the county. The county commissioners shall not contribute any moneys toward the funeral expenses of any such widow of a deceased service person who had remarried after the death of such deceased service person, nor where the total expense of any such funeral shall exceed six hundred dollars (\$600), nor unless application for the payment of such moneys shall be made within one year after the date of the death of such widow.

**Section 2111. Payment.**—(a) It shall be the duty of the county commissioners of the county to cause a warrant to be drawn upon the treasury of the county in the sum of seventy-five dollars (\$75) for each body buried in accordance with the provisions of this subdivision, to be paid out of the funds of the county, and such warrants shall be made payable to the applicant or applicants if the application shows that the funeral expenses have been paid; otherwise, to the undertaker performing the services, with notice to the applicant.

(b) Application for such contribution shall be made by the personal representative of such deceased service man or deceased service man's widow, if there be such personal representative, and if no such personal representative has qualified, then by any next of kin, individual or veterans' organization who or which assumes responsibility for the cost of burial of the body. The application shall be sustained by affidavit as to the facts.

(c) The application shall be on forms prescribed by the Department of Military Affairs, and shall set forth whether or not the funeral expenses have been paid. The application shall have attached thereto a certified copy of the death certificate, and an affidavit by the undertaker who had charge of the burial of the body to the effect that the undertaker did render such service and that the cost of burial did not exceed the sum of six hundred dollars (\$600).

**Section 2112. Notification to County Commissioners.**—The coroners and all other public officers, agents and servants, and all officers, agents and servants of any county, city, township, borough, district or other municipality, or of any prison, morgue, hospital, home or other public institution, having the control or custody of the body of the deceased service person whose body is entitled to be buried under the provisions of this subdivision, shall immediately, upon the death or arrival of the body of such deceased service person, notify the county commissioners of the county wherein such death occurred or wherein such deceased service person shall have had his legal residence.

**Section 2113. Markers or Graves; Headstones.**—(a) The county commissioners of the county shall from time to time, as they consider expedient, procure appropriate markers for the graves of deceased service persons. Such markers shall be of cast bronze, but no board of commissioners shall be required to discard any markers of other materials already purchased, whether or not already installed. No new markers shall in the future be purchased of metal other than cast bronze. Suitable non-metal substitutes may be used during periods of national emergency, so proclaimed by the President of the United

States, when all available metals are required for war materials.

(b) The county commissioners shall procure bronze markers from some manufacturer or manufacturers engaged in the manufacturing of the same, and in the contract for the furnishing thereof the manufacturer furnishing the bronze markers shall warrant that the same are made of the following metals and in the following proportions: copper, eighty-five per centum; tin, five per centum; zinc, five per centum; and lead, five per centum.

(c) The manufacturer shall be liable to the county to an amount equal to the sum paid to him by the county for the markers if the above proportions of metals are not contained in the markers.

(d) Nothing, except actual fraud on the part of the county commissioners, shall render them liable for any amount if it is established that the markers are not composed of the metals in the proportions above recited.

(e) No officer, trustee, association, corporation or person in control of any cemetery or a public burying ground shall have the right to question the composition of such bronze markers, or to require that any of them be chemically analyzed before being placed in the cemetery, or under any circumstances to refuse to permit the erection thereof in the cemetery or public burying ground, or to charge for making the foundations for the same more than is charged for making similar foundations of the same proportions. Any person who violates any of the provisions of this subsection shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each offense.

(f) The county commissioners of the county are hereby authorized and directed to place a marker upon the grave of each deceased service person who, at the time of his or her death, had his or her legal residence in the county, whether or not he or she died in the county and whether or not he or she was buried in the county, and upon the grave of each deceased service person buried in the county who, at the time of his or her death, did not have a legal residence within this Commonwealth. When such deceased service person shall have been a veteran of any war or campaign for which the Government of the United States issued discharge buttons, the markers designated for their graves shall include a facsimile of said discharge button.

(g) It shall be the duty of the county commissioners of the county upon or at any time subsequent to the death of any deceased service person who, at the time of his or her death, had his or her legal residence in the

county, on application as hereinafter provided, to cause a headstone or bronze memorial tablet to be placed at the head of or on the grave of each such deceased service person.

(h) Each headstone shall contain his or her name and the rank and organization to which he or she belonged or in which he or she served, in letters raised or cut in at least three-sixteenths of an inch deep. The headstone shall be of either marble or granite and shall be placed or set in a concrete base at least three feet deep, or if a headstone has been provided for such grave by the United States Government, the county commissioners shall provide the concrete base therefor, or if lettering only on an existing memorial is desired by the family, the county commissioners shall provide such lettering.

(i) In the event the body of any deceased service person either cannot or will not be returned to the United States of America, it shall be the duty of the county commissioners to cause a headstone to be placed in the family plot of such deceased service person. Said headstone shall have inscribed therein: (1) the name, rank and organization of such deceased service person; (2) the name of the country, location or manner in which such \*person lost his or her life; and (3) the cemetery or location in which the body, if buried, was finally laid to rest. Application therefor shall in each case be made on forms prescribed by the Department of Military Affairs, and may be made by any relative of the deceased service person, or by a friend if there is no objection by the nearest relative. Each application must be approved by an organization of veterans of any war in which the United States has been, is now, or shall hereafter be engaged.

(j) The expense in each case shall be borne by the county in which the deceased service person had his or her legal residence at the time of his or her death, whether or not he or she died in the county and whether or not he or she was buried in the county. The expense shall not exceed the sum of seventy-five dollars (\$75) for each headstone or concrete base or lettering or bronze memorial tablet, and the county commissioners of the county, acting under this section, shall cause to be drawn a warrant on the treasury of the county for the payment of said expense in favor of the party or parties furnishing such headstone or concrete base or lettering or bronze memorial tablet.

(k) In cases of dispute concerning the legal residence of a deceased service person, the county in which a deceased service person is buried shall perform the duties hereinbefore set forth. No such payment or payments shall be made unless the application therefor shall be

\* "persons" in original.

approved, before the commencement of the project, by the county commissioners.

(1) Any person who shall wilfully, maliciously or carelessly destroy, mutilate, remove or deface any grave marker or headstone placed or erected under the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not to exceed five hundred dollars (\$500) or suffer imprisonment not to exceed two years, or both.

**Section 2114. Burial Plots.**—The county commissioners of the county are hereby authorized to purchase plots of ground in any cemetery or burial ground in the counties for the interment of deceased service persons whose bodies are entitled to be buried under the provisions of this subdivision, and to cause to be drawn a warrant upon their county treasury for the payment of the same. The purchase price of said plots of ground shall not be charged against or allotted as part of the cost of burial of such deceased service persons who may be buried in any of said plots under the provisions of this subdivision.

**Section 2115. Care of Graves and Markers.**—The county commissioners of the county shall at all times see that the graves and tombstones of all deceased service persons who are buried in such county receive proper and fitting care, and may employ all necessary assistance to carry out the provisions of this section. The expense of the care of such graves and tombstones shall be borne by the county where said graves are located, except where suitable care is otherwise provided. Money so appropriated may be expended directly by the county commissioners or paid over to the person, firm, association or corporation owning or controlling any cemetery or burial place in the county where any such grave is situated. The sum so paid over in any year shall not exceed, for each grave, the charge for the annual care and maintenance of like graves in the same cemetery, or if no such fixed charge is established in that cemetery, it shall not exceed the sum charged in other cemeteries in the same county for like service.

**Section 2116. Proof of Service, Et Cetera.**—(a) In each case where application is made for a contribution towards the funeral expenses of a deceased service person or the widow of a deceased service person or for a headstone or concrete base or lettering or bronze memorial tablet, the county commissioners shall, before expending any money therefor, require proof of the following facts:

(1) The service of the deceased service person which entitles him or his widow to the benefits of this subdivision. Such proof shall be by the production of an

honorable discharge or other official record showing service during any war in which the United States is or was engaged, or by the records of the Department of Defense of the Federal Government or by copies thereof filed in the Department of Military Affairs, showing the existence of a campaign or state or condition of war, the participation of the United States therein, and the service of the deceased service person in a zone where such campaign or state or condition of war existed.

(2) The death of the deceased service person.

(3) In the case of the burial of the widow of a deceased service person, the death of such widow, and the fact that she was married to the deceased service person at the time of his death and that she has not since remarried. The proof required by clauses one and two of this subsection shall also be required in such cases.

(4) Except in cases where persons not having a legal residence within this Commonwealth are entitled to any of the benefits of this subdivision, the legal residence within the county of the deceased service person or of the widow of a deceased service person, as the case may be.

(b) Death shall in all cases be proved by death certificate where the same is procurable; otherwise, by affidavit of one or more persons personally acquainted with the deceased and the fact of his or her death, or by proof of the record of death kept by the attending physician, or by proof of the record of burial kept by the undertaker by whom he or she was buried or by the church burial association or cemetery company maintaining the graveyard, burial ground or cemetery in which he or she was buried.

(c) Where any proof required by this subdivision has been furnished to the county commissioners, no further proof of the same facts shall be required in order to obtain any other benefit under the provisions of this subdivision.

#### (c) Memorial Observances

Section 2121. Appropriations to Veterans' Organizations for Expenses of Memorial Day.—(a) The board of commissioners may appropriate, annually, to each camp of the United Spanish War Veterans, and to each post of the American Legion, and to each post of the Veterans of Foreign Wars, and to each post of the American War Veterans of World War II (AMVETS), and to each detachment 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 organization of ex-service men incorporated under the act of April twenty-ninth, one thousand eight hundred and

seventy-four (Pamphlet Laws 73), and the supplements thereto, in the county, a sum not to exceed three hundred dollars (\$300), to aid in defraying the expenses of Memorial Day and Armistice Day.

(b) 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 graves of Union Veterans of the Civil War.

(c) 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.

Section 2122. Flags to Decorate Graves.—(a) It shall be the duty of the county commissioners to provide flags on each Memorial Day with which to decorate the graves of all deceased service persons buried within the county. The flags to be used for said purposes shall be of one standard size, and shall be purchased at the expense of the county from moneys in the county treasury.

(b) Such flags shall be furnished to the various veterans' organizations in such numbers as they shall require for their respective communities.

(c) The moneys expended by any county under the provisions of this section shall be in addition to moneys appropriated by the county for Memorial Day purposes.

(d) The authorities in charge of any cemetery are authorized to remove such flags when the same become unsightly or weatherworn at any time not less than ninety days after the flags have been placed on graves.

Section 2123. Compilation of War Records; Director of Veterans' Affairs.—(a) The county commissioners of the county are hereby authorized and directed, at the expense of the county, to compile a record of the burial places within such county of deceased service \*persons. Such record, so far as practicable, shall indicate the name of each such person, the service in which he or she was engaged, the number of the regiment or company or command, the rank and period of service, the name and location of the cemetery or other place in which his or her body is interred, the location of the grave in such cemetery or other place, and the character of headstone or other marker, if any, at such grave. Such record shall be known as the Veterans' Grave Registration Record of ..... County, and shall be a public record open to inspection during business hours.

(b) The county commissioners of the county shall cause record blanks to be prepared according to forms prescribed by the Department of Military Affairs, whereby the information required for such record may be transmitted to them.

\* "person" in original.

(c) Every person, firm, association or corporation, including a municipal corporation, owning or controlling any cemetery or burial place within the Commonwealth in which are interred the bodies of deceased service persons, shall file with the county commissioners of the county in which such cemetery is located, a certificate, on the record blanks provided by said county commissioners, of the facts required for such record, as far as the same are within the knowledge of such person, firm, association, corporation, or the agents thereof.

(d) The county commissioners shall cause record blanks to be distributed to such persons, firms, associations and corporations, as they deem advisable, with the request that such information be transmitted to them. Any such person, firm, association or corporation, except municipal corporations, upon receipt of such blanks or forms, who shall refuse or neglect to fill out and transmit to the county commissioners such blanks or forms within six months after receipt of same, upon conviction thereof in a summary proceeding, shall be sentenced to pay a fine of one hundred dollars (\$100).

(e) For the purpose of locating the burial places of persons who have served in the military or naval service or other branches of the combative forces of the United States during any war in which the United States was engaged, the Grand Army of the Republic, the United Spanish War Veterans, the Veterans of Foreign Wars of the United States, the American Legion, the Disabled American Veterans, the American Veterans of World War II (AMVETS), and the Marine Corps League, through their local camps, posts and branches in this Commonwealth, are authorized, without expense to the county, to collect the required data and prepare and file with the county commissioners certificates embodying the information provided for in this section.

(f) For the purpose of carrying into effect the provisions of this section, the county commissioners shall appoint a director of veterans affairs, who shall receive such compensation as the salary board may fix.

(g) It shall also be the duty of the director of veterans affairs to:

(1) Assist the county commissioners in administering the provisions of this subdivision which relate to the burial of deceased service persons and their widows and to furnishing markers and placing headstones on their graves.

(2) Assist war veterans and their families in securing their rights as such in matters relating to their person, property and care of family, under any of the laws of this Commonwealth and of the United States, and for such services the director of veterans affairs shall be

entitled to his expenses incurred therein and additional compensation. Both expenses and compensation shall be subject to the approval of the salary board or the county commissioners, as the case may be.

(3) Assist the county commissioners in transmitting records of burial places of deceased service persons to the Department of Military Affairs of the Commonwealth, for the use of the Deputy Adjutant General in charge of Veteran Affairs, and otherwise assist the commissioners in cooperating with the said Deputy.

#### (d) County Histories

Section 2128. County History.—The county commissioners of the county, either independently or in connection with any other municipality or municipalities within their county or any society or organization, may appropriate money for the compilation of a county war history or any general history or historical account related to the history records and government of the county, and for the publication and distribution of the same.

Section 2129. Payment to Historical Societies.—The board of commissioners may pay, out of the county funds not otherwise appropriated, a sum of money not exceeding two thousand dollars (\$2000) annually to the county historical society, to assist in paying the running expenses thereof. If there is more than one such society in the county, such payment may be made only to the oldest society. Where any such society is comprised of residents of more than one county, the commissioners of said respective counties may jointly pay said sum in such proportion as they shall agree.

No such appropriation shall be renewed until vouchers have been filed with the commissioners showing that the appropriation for any prior year has been expended for the purpose herein designated.

Section 2130. Qualification of Society.—In order to entitle any historical society to the said appropriation, the following conditions shall have been first complied with. It shall have been organized at least two years, incorporated by the proper authority, and have an active membership of one hundred or more persons, each of whom shall have paid into the treasury of said society a membership fee of at least two dollars (\$2) for the support of the same. It shall hold at least two public meetings yearly, whereat papers shall be read or discussions held on historic subjects. It shall have established a museum wherein shall be deposited curios and other objects of interest, books, documents and papers relating to the history of the county or Commonwealth. It shall have adopted a constitution and code of by-laws and elected proper officers to conduct its business.

\* "interests" in original.

## (e) Animal and Plant Husbandry

Section 2135. Appropriations to Societies for Prevention of Cruelty to Animals.—The board of commissioners may appropriate moneys toward the maintenance of any organization or society, incorporated under the laws of this Commonwealth, for the prevention of cruelty to animals and which, for a period of at least two years prior to the making of such appropriation, shall have been engaged in carrying out the purposes of its incorporation, in whole or in part, within said county.

Section 2136. Agricultural Extension Work.—The board of commissioners may appropriate a sum not to exceed twelve thousand dollars (\$12,000) annually for agricultural extension work, in cooperation with the Pennsylvania State College, in encouraging improved methods of farm management and home economics and giving practical instruction and demonstrations in agriculture, for the purpose of improving and developing the agricultural resources of the county. The money so appropriated shall be expended according to rules and regulations prescribed or approved by the board of commissioners. The board of commissioners may also, where practicable and desirable, provide offices in the county court house for headquarters for such cooperative work.

Section 2137. Agricultural or Horticultural Societies.—The county commissioners are hereby authorized to make appropriations annually out of the current revenues of the county to any incorporated agricultural or horticultural society or association located within the county. The total amount of any such appropriation in any one county shall not exceed fifteen hundred dollars (\$1500) in any one year. Where more than one such society or association is located in the county, the amount appropriated may be distributed and divided among said societies and associations in such proportions and such amount as the board of commissioners, in its discretion, may determine.

Section 2138. Suppression of Animal and Plant Diseases.—The board of commissioners is hereby authorized to make appropriations from county funds for the purpose of controlling and suppressing dangerous \*infectious disease of livestock and poultry and dangerous plant diseases and insect pests and diseases to honeybees, in cooperation with the Department of Agriculture of Pennsylvania.

For the purpose of carrying out the provisions of the section, the board of county commissioners may enter into agreements with the Pennsylvania Department of Agriculture concerning terms, rules, regulations and practices for conducting the work.

\* "infections" in original.

## (f) Communications

Section 2143. Appropriations for Radio Broadcasting Station.—The board of commissioners of the county may appropriate annually a sum not in excess of five hundred dollars (\$500) for the purpose of assisting any naval reserve unit or amateur radio league in maintaining, equipping and operating a short wave radio broadcasting station, which shall be available at all times for public use in the event of emergency or disaster.

## (g) Prevention and Control of Floods

Section 2147. Prevention and Control of Floods.—(a) The board of commissioners may borrow, appropriate and expend money for the purpose of cleansing, regulating, improving and controlling rivers, streams and other bodies of water lying within the boundaries of the county, either in whole or in part, for the prevention and control of floods. They may make contracts and expenditures for the cleansing, regulation, improvement and control of such waters, and for the prevention and control of floods by storage or retaining reservoirs, or otherwise, in parts of such waters beyond the limits of the county or of the Commonwealth, when, in their judgment, such expenditures may be necessary and for the benefit of the county.

(b) The commissioners may also make appropriations and expenditures for the purpose of investigating and examining or for assisting in the investigation and examination of the condition of such waters, within or without the bounds of the county or of the Commonwealth, for the purpose of facilitating the ends aforesaid.

(c) The commissioners may enter into such arrangements and agreements with the Secretary of Defense or other public authorities empowered to act in the premises under any law of the United States or of this or any other State, as may be necessary and proper for such purposes, with a view to harmonious and efficient action and proportionate contribution as nearly as may be arrived at or be practicable.

(d) In exercising the powers herein conferred, the county commissioners may, in their discretion, subject to the limitation of the Constitution, issue interest bearing bonds of the county in accordance with the provisions of the Municipal Borrowing Law.

## (h) Aid to Fire Fighting Departments and Companies

Section 2152. Fire Training Schools.—The county commissioners may establish, equip and maintain fire training schools or centers for the purpose of giving instruction and practical training in the prevention,

control and fighting of fire to the members of paid fire departments and volunteer fire companies in any city, borough, town or township within the county.

(i) Utilities

Section 2155. Drilling Gas Wells and Laying Gas Lines.—(a) The board of commissioners may contract for the drilling of gas wells upon any lands owned by the county for the purpose of furnishing gas for light and fuel to the county buildings and for other purposes. For that purpose, they may also contract for the laying of gas lines equipped with such modern appliances and machinery as may be necessary.

(b) All such contracts, including contracts for the building of rigs or derricks and the purchase of machinery, shall be made by the county commissioners in the manner provided for in article twenty of this act.

Section 2156. Contracts for Relocation, Change or Elevation of Railroads.—Subject to the provisions of the Public Utility Law, the board of commissioners may enter into contracts with any railroad companies whereby the said railroad companies may re-locate, change or elevate their railroads within the county in such manner as, in the judgment of the board, may be best adapted to secure the safety of lives and property and promote the interest of the county. For such purpose, the board shall have power to do all acts that may be necessary and proper to effectually carry out such contracts.

Section 2157. County May Assist Municipalities.—Upon the request of any political subdivision or subdivisions within the county, the county may assist such political subdivision in any negotiations or contest with any public utility company, and for such purpose may employ or place at the disposal of such political subdivision the legal, engineering, accounting or clerical service of the county. The county commissioners of the county may also enter their appearance as interveners or otherwise in any proceedings before the Public Utility Commission or before any court in any proceeding involving any controversy between any political subdivisions in the county and a public utility company.

(j) Law Libraries

Section 2162. Appropriations for Law Libraries.—The county commissioners shall, at their annual budget session, make such appropriation for law libraries established for public use as may be necessary and sufficient to properly support and maintain said libraries. Said appropriation shall be in lieu of all fines and forfeitures as directed to be paid to such libraries by existing laws.

## (k) Rewards

**Section 2171. Rewards for Detection or Apprehension of Criminals.**—The board of commissioners, when they deem the same expedient, may offer such reward, in addition to that authorized by law, as in their judgment the nature of the case requires, for the detection or apprehension of any person charged with or perpetrating any felony or misdemeanor, or aiding or abetting the same. Upon the conviction of such person, the county commissioners may pay such reward out of the county treasury, but in no case shall the owner of any stolen property be entitled to any of the reward for the detection or apprehension of the person guilty of the larceny. In cases of misdemeanor, the county commissioners must have the approval of the president judge of the court of common pleas of the county before offering or paying such reward.

## (l) Garbage and Refuse Disposal

**Section 2175. Garbage and Refuse Disposal in County Plants.**—The county commissioners of the county shall have the power to operate garbage and refuse disposal plants or facilities, sanitary land fills and incinerating furnaces, and to enter into agreements or contracts with any person, corporation or political subdivision for the disposal of garbage and refuse in such facilities and sanitary land fills erected and maintained by the county, as provided in article twenty-five of this act, and to charge and receive fees for such service.

**Section 2176. Garbage Disposal.**—For the purpose and within the meaning of this act, the following definitions shall obtain:

“Adequate provision for drainage” means closed or covered drains leading from floors, depositories of garbage, refuse or waste into a cesspool or cesspools, sewer and treatment works.

“Adequate water supply” means a head and source of water of sufficient force, pressure and volume, when directly applied, to completely flush out and clean all floors, drains, receptacles, depositories, equipment and implements used in the conduct of a garbage disposal plant, as often as may be necessary to keep the same clean and sanitary at all times.

“Cesspool” means a hole dug below the surface of the ground adequate to dispose of all liquids emanating from a garbage disposal plant, with a device for absolutely sealing such cesspool at the top.

“Garbage” means the animal or vegetable refuse from the storage, vending, transportation, sale, preparation or use of foodstuffs, such as meats, fish, fowl, fruits or vegetables, or any other organic substance or substances subject to fermentation or decay.

“Garbage disposal plant” means any place where garbage is dumped, spread, mixed, stored, incinerated, reduced, treated, buried, or otherwise disposed of.

“Impervious material” means any material which shall make and maintain the floors, depositories of garbage and waste at all times absolutely water-tight and easily cleaned.

“Municipality” means any county, city, borough or township.

“Person” includes masculine and feminine, and any firm, copartnership, institution, association or corporation, excepting municipal and quasi-municipal corporations, and any agent, servant, assistant, employe, or representative thereof.

“Waters of the Commonwealth” means all streams and springs and all bodies of surface and of ground water, whether natural or artificial, seasonal or constant, within the boundaries of the Commonwealth.

Section 2177. License for Disposal Plant.—It shall be unlawful for any municipality or person to keep, maintain or conduct a garbage disposal plant without a plant license from the county commissioners as in this act provided. It shall also be unlawful for any municipality or person to construct a garbage disposal plant within the county until the plans and specifications therefor have been submitted to and approved by the county commissioners and a plant license has been issued by the county commissioners authorizing such municipality or persons to keep, maintain or conduct such garbage disposal plant upon its construction: Provided, however, That the provisions of this section shall not apply to a garbage disposal plant constructed by or for the use of a municipality within its boundaries.

Section 2178. Application for License.—Every municipality or person desiring to construct, keep, maintain or conduct a garbage disposal plant within the county shall file an application for such plant license with the county commissioners: Provided, however, That none of the provisions of this section shall apply to a garbage disposal plant now or hereafter constructed by or for the use of a municipality within its boundaries. The application shall be on a form prescribed, prepared and furnished by the county commissioners and, together with such other information as the county commissioners shall require, shall state:

- (a) The name and address of the applicant;
- (b) The name and address of the owner or owners of the property upon which applicant desires to construct, keep, maintain or conduct such garbage disposal plant;
- (c) The location and locality of the property;
- (d) The method to be employed in disposing of garbage;

(e) The approximate amount of garbage to be disposed of daily;

(f) The municipalities with whom the applicant has a contract for the disposal of garbage and the duration thereof.

If the application is for the construction of a garbage disposal plant, the applicant shall submit with such application the plans and specifications pertaining to such construction.

Section 2179. Issuance of License; Fee; Refusal or Revocation.—Upon receipt of an application for a plant license, the county commissioners shall cause such investigation as it shall deem necessary to be made of the location and premises where the garbage disposal plant is desired to be constructed, kept, maintained or conducted, and shall make a study of the plans and specifications pertaining to the proposed construction of any garbage disposal plant. The county commissioners shall, when satisfied that the place to be used as a garbage disposal plant is a suitable place for such purpose and is properly equipped therefor and when all the requirements of this act and the rules and regulations of the county commissioners shall be complied with, issue a plant license to the applicant, upon the payment of a license fee of one hundred dollars (\$100), except when the applicant is a municipality, which shall be paid into the county treasury. A plant license issued to a municipality shall be without the payment of a fee.

All plant licenses issued by the county commissioners under this act shall expire on the first day of June next following the day on which issued, unless sooner revoked or suspended, shall be on a form prescribed by the county commissioners, shall not be transferable, shall be issued only for the premises named in the application, shall be posted in a conspicuous place on the applicant's premises, and may be renewed from year to year upon application and payment of license fee as in the procurement of an original license. Applications for renewal of plant licenses shall be mailed to license holders by the county commissioners at least thirty days before the expiration date of such licenses.

The county commissioners may refuse to grant a plant license or may suspend or revoke a license if the applicant or licensee does not meet or conform to the requirements of this act and the rules and regulations of the county commissioners authorized by this act. Before the county commissioners shall refuse to grant such a license or shall suspend or revoke a license, they shall afford the applicant or licensee an opportunity to be heard, and shall give at least five days' written notice of the hearing to the applicant or licensee by registered letter sent to the address set forth in the application.

**Section 2180. Transportation License for Vehicles.—** It shall be unlawful for any person to transport or cause to be transported any garbage over any public highway in the county in any vehicle unless such person has applied to and received from the county commissioners of the county, as in this act provided, a transportation license in respect of such vehicle. Such license shall be in the possession of the driver of such vehicle at all times when garbage is being transported therein and until such vehicle has been thoroughly flushed out and cleaned after transporting garbage, and shall be exhibited to any county or municipal police officer, county road caretaker, constable, deputy constable, or other peace officer, or officer invested with the powers of a peace officer, upon his request.

**Section 2181. Application for Transportation License.—** Every person desiring to transport garbage in any vehicle within the county shall file an application for a transportation license in respect of such vehicle with the county commissioners of the county, upon a form prescribed, prepared and supplied by the county commissioners, which, together with such other information as the county commissioners shall require, shall contain:

(a) The name and address of the applicant;

(b) The name and address of the owner of the vehicle, if the same be owned by some person other than the applicant;

(c) A description of the vehicle sufficient to identify it and to show in detail its style of construction;

(d) The locality from which the garbage is proposed to be collected;

(e) The persons and municipal and quasi-municipal corporations with whom and which the applicant has contracts for the collection of garbage;

(f) The place where and the method by which the applicant proposes to dispose of the garbage hauled and the persons with whom the applicant has contracts for the disposal of garbage.

**Section 2182. Inspection by County Commissioners; Refusal or Revocation of Transportation License.—** Upon receipt of an application for a transportation license in respect of any vehicle, the county commissioners shall cause to be made such inspection thereof as they shall consider necessary, and if satisfied that the vehicle is properly equipped and suitable for the purpose and that the rules and regulations of the county commissioners have been and will be complied with, shall issue a transportation license in respect of such vehicle, upon the payment of a license fee as follows:

(a) If the applicant for the transportation license is the licensee under a plant license for a garbage disposal

plant situated within the county where the application for the transportation license is made, the transportation license fee shall be one dollar (\$1).

(b) If the applicant for the transportation license is not the licensee under any plant license from the county, but the garbage which the applicant proposes to transport originates upon the applicant's own premises as an incident only of the prosecution of another business in which the applicant is principally engaged, the transportation license fee shall be five dollars (\$5).

(c) If the applicant for a transportation license is a municipality, the transportation license shall be issued without the payment of a fee. No license, however, shall be required for a municipality to transport garbage solely within its own boundaries.

(d) In all other cases, the transportation license fee shall be ten dollars (\$10).

All transportation licenses issued by the county commissioners under this act shall expire on the first day of June next following the date on which issued, unless sooner revoked or suspended, shall be in a form prescribed by the county commissioners, shall not be transferable from one person to another, shall not be transferable from one vehicle to another, except by action of the board of county commissioners, which action shall be evidenced by the issuance of a new license certificate properly describing the vehicle to which the license is transferred, after surrender of the old license certificate, and may be renewed from year to year upon application and payment of the license fee as in the procurement of an original license. Applications for renewal of transportation licenses shall be mailed to license holders by the county commissioners at least thirty days before the expiration date of such licenses.

The county commissioners may refuse to grant a transportation license or may suspend or revoke such a license if the applicant or licensee does not meet, observe or conform to the requirements of this act and the rules and regulations of the county commissioners authorized by this act. Before the county commissioners shall refuse to grant such a license or shall suspend or revoke a license, they shall afford the applicant or licensee an opportunity to be heard, and shall give at least five days' written notice of the hearing to the applicant or licensee by registered letter addressed to the applicant or licensee at the address set forth in the application.

Section 2183. Municipalities Not to Contract with Unlicensed Persons.—No municipality in the county shall enter into a contract for the collection, transportation or disposal of its garbage with any person or municipality who or which has not secured proper licenses from the county commissioners under the provisions herein.

The provisions of this section shall not apply where the collection, transportation or disposal of garbage is carried on wholly within the boundaries of a municipality so contracting.

Section 2184. Unlawful Disposal; Dumping Grounds.—No municipality or person who transports garbage or who keeps, maintains or conducts a garbage disposal plant in the county shall throw, spread or deposit any garbage, offal, pomace, dead animals, decaying matter or organic waste substance of any kind in any ravine, ditch or gutter, on any street or highway, into any waters of the Commonwealth, or permit the same to remain exposed upon the surface of the ground.

No person or municipality shall use or permit his or its property or property occupied by him in the county to be used as a dumping ground or place of disposal for garbage or waste from any garbage disposal plant.

Nothing contained in this section, however, shall be construed so as to interfere with bona fide use of recognized fertilizers for legitimate agricultural purposes.

Section 2185. Suppression of Noxious Odors.—No person or municipality who keeps, maintains or conducts a garbage disposal plant in the county shall allow any noxious exhalations, odors or gases that are or may be deleterious or \*detrimental to public health or are vile or offensive to escape into the air, or any substance that is deleterious or detrimental to public health to accumulate upon the premises or be thrown or allowed to discharge into any street, roadway or public place, or be thrown or allowed to discharge into any stream or other waters of the Commonwealth.

Section 2186. Water Supply; Drainage; Floor Construction.—All garbage disposal plants in the county shall have an adequate water supply for the purpose of keeping the place clean and sanitary at all times. All floors shall be constructed of concrete or other impervious material, and shall have adequate provision for drainage to a cesspool, to a sewer or treatment works approved by the commissioners.

Section 2187. Examination and Inspection of Plants.—The county commissioners shall have the power to visit, examine and inspect all garbage disposal plants and all vehicles licensed under the provisions herein and all places where such vehicles are kept, stored or garaged. The county commissioners shall have free and full access to the grounds, premises and buildings of any garbage disposal plant licensed under the provisions herein and any such vehicles' storage place, and all licensees or their employes are hereby directed to give to the commissioners such means, facilities and opportunity for such visitation, examination and inspection as is hereby provided and required.

\* "detrimental" in original.

Section 2188. Existing Ordinances Saved from Repeal.—The provisions herein and the regulations made hereunder shall not be taken or deemed to repeal existing municipal ordinances, or to prevent municipalities from enacting and enforcing new ordinances for the further protection of the public health: Provided, That the provisions herein shall be considered as establishing minimum requirements and regulations, and that nothing herein contained shall be deemed to prevent municipalities from ordaining and enforcing such additional requirements, in excess of the requirements and regulations hereunder, as may be deemed necessary from time to time for the preservation of public health, and to require applications from, and to issue licenses to, such persons as may be defined by local ordinances.

Section 2189. Rules and Regulations.—The county commissioners are hereby authorized to adopt and promulgate rules and regulations which, in its judgment, are necessary for the proper administration and enforcement of this act.

Section 2190. Plant as Nuisance.—Any garbage disposal plant in the county, kept, maintained or conducted in violation of the provisions herein, is hereby declared to be a public or common nuisance.

Section 2191. Penalties.—Any person violating the provisions of this act shall, upon summary conviction before a mayor, burgess, magistrate, alderman or justice of the peace, be sentenced to pay a fine of not more than one hundred dollars (\$100) and costs of prosecution for each offense, and upon the nonpayment thereof shall undergo imprisonment in the county jail for a term of not more than thirty (30) days: Provided, That any person so convicted shall have the right of appeal as in other cases of summary conviction: Provided also, That the Commonwealth shall have the right of appeal to the appropriate appellate court in all prosecutions arising out of the violation of the provisions contained herein. The fines collected hereunder, except as otherwise provided by the Constitution, shall be paid into the treasury of the county.

Section 2192. Action to Abate Nuisance or Enjoin Unlicensed Plants.—At the instance of the county commissioners, an action to enjoin any nuisance defined in section 2190, or to enjoin any person or municipality from constructing, keeping, maintaining or conducting a garbage disposal plant without a license, as provided for herein, may be brought in the name of the county by the district attorney of the county where such nuisance exists, or where such person or municipality proposes to, or has constructed or proposes to, or is keeping, maintaining or conducting a garbage disposal plant without a license. Such action shall be brought and tried as an

action in equity, and may be brought in the court of common pleas of the county where such nuisance exists, or where such person or municipality proposes to, or has constructed or proposes to, or is keeping, maintaining or conducting such garbage disposal plant without a license. If it is made to appear by affidavit or otherwise to the satisfaction of the court that such a nuisance exists, or that such person or municipality proposes to, or had constructed or proposes to, or is keeping, maintaining or conducting a garbage disposal plant without a license, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance, or from constructing or keeping, maintaining or conducting such garbage disposal plant, until the conclusion of the proceedings. No bond shall be required in instituting such proceedings. If, after hearing, the court shall find such nuisance to exist, or that such person or municipality proposes to, or has constructed or proposes to, or is keeping, maintaining or conducting a garbage disposal plant without a license, it shall forthwith enter a final decree ordering such nuisance to be abated, or enjoining such person or municipality from constructing, or from keeping, maintaining or conducting such garbage disposal plant without a license. This section, insofar as it applies to the practice and procedure in actions in equity, is suspended insofar as it relates to venue by the Rules of Civil Procedure governing the Action in Equity.

Section 2193. Garbage Disposal Plants and Garbage and Incinerating Furnaces; Acquisition of Property.—The county may acquire by gift, lease, purchase or eminent domain real property within the county for the purpose of erecting thereon garbage disposal plants or facilities and sanitary land fills, and shall have power to erect, operate and maintain suitable buildings for garbage and incinerating furnaces. In every case of taking private property by eminent domain, the county shall acquire the entire title, either in fee or otherwise, held by the owner or owners of the property or of any interest therein.

(m) Smoke Control

Section 2195. Power to Regulate.—The commissioners of the county shall have the power, by resolution or ordinance, to regulate the production or emission of smoke from any chimney, smokestack or other source within the county. Said regulations may include provisions for the payment of fees for examination of plans and issuing of permits, for inspection of fuel-burning devices, and issuing certificates of compliance with such regulations, and providing for fines and penalties, as hereinafter set forth, for the violation of any such regulation. The

\*board of commissioners shall have discretion to determine the effective date of any resolution or \*\*ordinance promulgated by them, and in making such determination shall take into consideration the availability of fuel-burning devices suitable for burning high volatile bituminous coal smokelessly.

Section 2196. Enforcement; Inspectors and Employes; Equipment; Property and Supplies.—The board of commissioners of the county may borrow, appropriate and expend money for the purpose of effectuating the foregoing power, and may appoint inspectors and other persons for the enforcement of any such regulation, and may authorize the employment of clerks, stenographers and different assistants and fix their compensation, and authorize the acquisition of equipment, property and supplies incidental to the carrying into effect of such regulations.

Section 2197. Violation of Regulations.—Any person who shall violate any regulation so resolved upon or ordained, the same not being inconsistent with any law of this Commonwealth or the Constitution thereof, or with any law of the United States of America \*\*\*or the Constitution thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay such fine, not exceeding one hundred dollars (\$100), as may be prescribed by such resolution or ordinance, to be recovered before any alderman or justice of the peace of the county, which fines shall be paid into the county treasury, and in default of payment of such fine, the defendant shall be imprisoned in the county jail for a period not exceeding thirty (30) days.

## Article XXII

### Planning, Zoning and Traffic

#### (a) County and Regional Planning Commissions

Section 2201. Creation and Powers of County Planning Commissions.—(a) In the county there shall be a county planning commission and also a department of county planning. The department shall be under the supervision of the planning commission.

(b) The county planning commission shall consist of nine persons, who shall be residents of the county, four of whom shall be residents of the city or cities therein, and five of whom shall be residents of the boroughs and townships therein, and who shall have knowledge and experience in respect to one or more of the following subjects: finance, commerce, industry, agriculture, transportation, architecture, landscape architecture, real estate, building, engineering, social welfare, civic admin-

\* "boards" in original.  
 \*\* "ordinances" in original.  
 \*\*\* "of" in original

istration and law, and at least seven of whom shall not be paid county employes.

(c) All of said persons shall be appointed by the county commissioners; three of them shall be designated to serve until the first day of January of the second year following the year in which they are appointed, three of them until the first day of January of the fourth year following the year in which they are appointed, and three of them until the first day of January of the sixth year following the year in which they are appointed: Provided, however, That the members of the county planning commission in office on the first day of September, one thousand nine hundred thirty-seven, shall remain in office until the end of their respective terms. Their successors shall be appointed at the expiration of their respective terms, to serve six years. An appointment to fill a casual vacancy shall be only for the unexpired portion of the term.

(d) Three members shall constitute a quorum. They may make and alter rules and regulations for their own organization and procedure consistent with the resolutions of the county commissioners and the rules of the Commonwealth.

(e) They shall serve without compensation, and shall make annually, to the county commissioners, a report of their transactions and recommendations. They may employ engineers and other persons whose salaries and wages and other necessary expenses of the commission shall be provided for, in the discretion of the county commissioners, by proper appropriation and resolution.

(f) The county planning commission may be given the additional power and duty of serving as the county zoning commission, with all the powers and duties that have been or may be conferred upon such county zoning commission by other acts of Assembly.

Section 2202. Submission of Resolutions for Certain Improvements; Reports.—All resolutions of the county commissioners relating to the location of any public buildings in the county and to the location, extension, widening, enlargement, ornamentation or parking of any street, boulevard, parkway, bridge, tunnel, subway or underground road, park, playground or other public grounds, to the vacation of any highway or portion thereof, or to the making or alteration of the county plan of highways, or to any surface, underground or elevated railway, shall be furnished to the County Planning Commission.

The planning commission may make a report, or suggestion in relation thereto, if it deems the report necessary or advisable for the consideration of the said commissioners. If the report is made by the commission

prior to the expiration of the said twenty days, the county commissioners may immediately proceed with the adoption of the said resolution. All such reports when delivered to the said commissioners shall be for the information of the public as well as for the commissioners, and the commissioners shall furnish to any newspaper of the county on request, for publication, a copy of any such report.

Section 2203. Appearance in Proceedings.—The County Planning Commission may appear in any proceeding with reference to the opening or vacation of any public road or highway, bridge, tunnel, subway or underground road as to which the commission has an interest under the provisions of this article, and file a report stating its view with reference thereto, and may produce testimony in connection therewith.

Section 2204. Plans of Subdivisions; Jurisdiction; Scope of Subdivisions; Regulations; Procedure; Penalties.—(a) The County Planning Commission shall have jurisdiction and control of the subdivision of land located within the county limits. For the purpose of this section, a subdivision shall be construed to be a division of any part, parcel or area of land by the owner or agent, either by lots or by metes and bounds, into lots or parcels, three or more in number, for the purpose of conveyance, transfer, improvement or sale, with appurtenant roads, streets, lanes, alleys and ways, dedicated or intended to be dedicated to public use or the use of purchasers or owners of lots fronting thereon. All plans, plots and replots of land laid out in building lots, and the streets, highways, alleys or other portions of the same intended to be dedicated to public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, located within the county limits, except those located within any city or borough within the said county, shall be submitted to the County Planning Commission and approved by it before they shall be recorded.

(b) It shall not be lawful to receive or record any such plan in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the County Planning Commission, if one has been created. The disapproval of any such plan by the County 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 county concerning maintenance or improvement of any such dedicated streets, highways, alleys or other portions of the same, until the proper authorities of the county shall have made actual appropriation of the same by entry, use or improvement. The owners and pur-

chasers of such lots shall be conclusively presumed to have notice of public plans, maps and reports of the commission affecting such property within its jurisdiction.

(c) Any owner or agent of the owner of any land located within a subdivision who sells, transfers or agrees to sell any land by reference to or exhibition of or by other use of a plan of a subdivision before the same has been approved by the County Planning Commission shall, upon summary conviction thereof before any alderman or justice of the peace of the county, \*be sentenced to pay a fine of not less than fifty dollars (\$50) or more than one hundred dollars (\$100) and the cost of the prosecution, or undergo an imprisonment for a term of not more than thirty (30) days, for each lot or parcel transferred or sold or agreed to be sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

(d) The county may also enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction, in addition to the penalty herein provided.

Section 2205. Maps of County.—The County Planning Commission may make or cause to be made and laid before the said county commissioners and, in its discretion, cause to be published, a map or maps of the county and any portion or portions thereof, including the territory extending three miles beyond the county limits, showing the highways and other public improvements hereinbefore specified and other natural or artificial features, and also locations proposed by it for any new highways or other of such improvements, or any widening, extension or relocation of the same, or any change in the county plan by it deemed advisable.

Section 2206. Recommendations to County Commissioners and Others.—It may make recommendations to the county commissioners from time to time concerning any such matters and things aforesaid for action of the county commissioners thereon \*\*and in so doing have regard for present \*\*\*conditions and future needs and growth of the county, and the distribution and relative location of all the principal streets and railways, waterways and all other means of public travel and business communication, as well as the distribution and relative location of public buildings, public grounds and open spaces devoted to public use, and the planning and laying out for dwelling and business purposes of private grounds brought into the market from time to time.

\* "by" in original.

\*\* "an" in original.

\*\*\* "condition" in original.

The County Planning Commission may make recommendations to any public authorities or any corporations or individuals in such counties with reference to the location of any buildings, structures or works to be erected or constructed by them.

Section 2207. Cooperation Between Commission and Political Subdivisions.—The County Planning Commission shall encourage the cooperation of the political subdivisions within the county in any matters whatsoever which may concern the integrity of the county plan or maps prepared by the commission as an aid toward coordination of municipal plans with the county plans, and it shall be the duty of every city, borough and township within the county, having prepared any maps or plans by a duly authorized planning commission, to file a copy thereof and any subsequent amendments thereto with the County Planning Commission within thirty days from the completion of such plan or map.

Section 2208. Local Authorities to Submit Plans to County Planning Commission.—Before the approval of a plat by any city, borough or township authority having the power of approval of plats, such authority shall transmit a copy of the proposed plat to the County Planning Commission and the commission shall make a report thereon to such local authority. Pending the receipt and consideration of such report, such local authority shall defer action thereon, but if such report is not received by the local authority within twenty days from the submission of the plat to the County Planning Commission, or within such further time as may be agreed upon by the local authorities, such local authority may proceed to final action thereon.

Section 2209. Creation of Regional Planning Commission.—(a) The councils or corresponding legislative bodies of any group of political subdivisions, independently or together with the county commissioners of the county or counties in which such group of political subdivisions is located or of any adjoining county or counties, or the council or corresponding legislative body of any political subdivision together with the county commissioners in which such political subdivision is located, or the county commissioners of any two or more adjoining counties, may cooperate in the creation of a regional planning commission for any region defined, as may be agreed upon by said cooperating councils, authorities and county commissioners, or by said cooperating county commissioners.

(b) The number and qualifications of the members of any such regional planning commission and their terms and method of appointment or removal shall be such as may be determined and agreed upon by said cooperating

authorities and county commissioners. A majority of the members of the regional planning commission shall hold no other public office or position, excepting appointive membership on a municipal or other planning commission. Members of the regional planning commission shall serve without salary, but may be paid expenses incurred in the performance of duties.

(c) The proportion of the expenses of the regional planning commission to be borne respectively by the political subdivisions and counties or by the counties cooperating in the establishment and maintenance of the commission shall be such as may be determined and agreed upon by the cooperating authorities and county commissioners, and said authorities and county commissioners are hereby authorized to appropriate their respective shares of such expenses. Within the amounts thus agreed upon and duly appropriated, any such regional planning commission shall have the power to appoint such employes and staff as it may deem necessary for its work, and contract with planners and other consultants for such services as it may require.

(d) The regional planning commission shall elect its chairman, who shall hold no other public office or position except that he may be a member of a municipal or other planning commission. The term of the chairman shall be one year, with eligibility for reelection. The commission may create and fill such other offices as it may determine. It shall adopt rules for the transaction of business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(e) The county commissioners or other county official, or the chief executive officer or body of any political subdivision, may, from time to time, upon the request of the commission, and for the purpose of special surveys, assign or detail to the commission any officers or employes of the county or political subdivision to make for the commission special surveys or studies requested by the commission.

Section 2210. Regional Planning Commission to Make Master Plan.—It shall be the function and duty of the regional planning commission to make a master plan and such surveys and studies as may be essential thereto for the physical development of the region as created in accordance with the provisions of the preceding section. Such master plan shall include all the elements of physical development that may be locally important and desirable.

Section 2211. Delegated Powers of Regional Planning Commission.—The council or corresponding legislative bodies of any political subdivision and the county com-

missioners of any county so cooperating may delegate to the regional planning commission, by ordinance or resolution, any or all of the powers and duties of the planning commission of such political subdivision with respect to the territory of the political subdivision so enacting or resolving, and in case of a county any and all of the powers and duties of a county planning commission for the territory of the county so resolving.

(b) County Zoning

Section 2220. Grant of Power.—The board of county commissioners of the county is hereby empowered, in accordance with the conditions and procedure specified in the subsequent sections of this subdivision, by ordinance, to regulate in any portion or portions of such county which lie outside of cities, boroughs and townships of the first class the location, height, bulk and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply, conservation, soil conservation, forestry, or other purposes.

Section 2221. Zoning Commission.—(a) In order to avail itself of the powers conferred by this subdivision, the board of county commissioners shall appoint a permanent commission of three, five or seven members, which shall be known as the county zoning commission.

Any individual, whether in private or ex-officio capacity, may be appointed to serve on such commission, and the majority of the members thereof shall be individuals who do not hold elective public office. The boards of county commissioners of two or more counties may arrange or provide for a joint or common commission, and for the purposes of this subdivision any such joint or common zoning commission shall be deemed the zoning commission of each of such counties. The board of county commissioners shall provide for reimbursement of the members of the zoning commission for actual expenses incurred, and shall provide for the filling of vacancies in the membership of such commission, and for the removal of a member for non-performance of duty or misconduct.

(b) In the county where a county planning commission has been established, the county commissioners may, in lieu of establishing a zoning commission as provided in this section, confer and impose on such planning commission the additional power and duty of serving as the county zoning commission, with all the powers and duties conferred by this subdivision upon the county zoning commission.

Section 2222. Assistance from State Agencies; Personnel.—The zoning commission is directed to make use of the expert advice and information which may be furnished by appropriate State and Federal officials, departments and agencies, particularly the Pennsylvania State Planning Board. All State officials, departments and agencies having information, maps and data pertinent to county zoning are hereby authorized and directed to make the same available for the use of the county zoning commission, as well as to furnish such other technical assistance and advice as they may have available for such purpose. The zoning commission may employ such trained personnel as the funds provided therefor may permit.

Section 2223. Preparation of Zoning Plan.—(a) It shall be the duty of the zoning commission of the county to make for certification to the board of county commissioners a zoning plan or plans, including both the full text of the zoning ordinance or ordinances and the maps, and representing the recommendations of the commission for the regulation by districts or zones of the location, height, bulk and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the use of land for trade, industry, recreation, agriculture, forestry, soil conservation, water supply, conservation, or other purposes.

(b) When the efforts of such commission shall have reached the stage of a tentative plan, the commission shall hold at least one public hearing on each tentative plan, to be separately submitted, notice of which hearings shall be published at least fifteen days before the date of the hearing in a newspaper of general circulation in the county. The notice shall contain the time and place of hearing, and shall specify the place and times at which the tentative text and maps of the zoning ordinance may be examined. For the purpose of its public hearing or hearings, the commission shall have power to summon witnesses, administer oaths and compel the giving of testimony.

(c) Before finally adopting and certifying any zoning plan, the zoning commission shall submit its tentative plan to the State Planning Board for advice and recommendations. The approval of the State Planning Board shall be presumed unless the State Planning Board shall, within forty-five days after such submission, present its advices and criticisms in respect to such zoning plan.

(d) In the event that after such public hearing or hearings and after such submission to the State Planning

Board the zoning commission, in the light of the developments at such hearing or hearings or the advices and recommendations of the State Planning Board, makes changes in its said tentative plan, there shall be no requirement of any hearing upon such changes or any submission of such changes to the State Planning Board.

Section 2224. Zoning Ordinance.—From and after the time when a zoning commission of the county, in accordance with the procedure herein specified, makes, adopts and certifies to the county commissioners each zoning plan, including both the full text of a zoning ordinance and the maps, then the county commissioners may, by ordinance, exercise the powers hereinbefore granted to it in this subdivision, and for the purpose of such exercise, the county commissioners may divide the territory of the county which lies outside of municipalities which now have and enforce zoning ordinances into districts or zones of such number, shape or area as it may determine. Within such districts or any of them, they may regulate the erection, construction, reconstruction, alteration and uses of buildings and structures and the uses of land, and may require and provide for the issuance of building permits as a condition precedent to the right to erect, construct, reconstruct or alter any building or structure within any district covered by such zoning ordinance. All such regulations shall be uniform for each class or kind of buildings throughout any district, but the regulations in one district may differ from those in other districts.

Section 2225. Method of Procedure.—After receiving the certification of a zone plan from the zoning commission and before the enactment of any zoning ordinance, the county commissioners shall hold a public hearing thereon, of the time and place of which at least thirty days' notice shall be given by one publication in a newspaper of general circulation in the county. Such notice shall state the place at which the text and maps as certified by the zoning commission may be examined. The board may conduct consultative hearings or referenda to aid it in determining the desirability of contemplated or recommended regulations. No change in or departure from the text or maps as certified by the zoning commission shall be made unless such change or departure shall first be submitted to the zoning commission for its approval or disapproval or suggestions. The zoning commission shall have thirty days from and after such submission within which to send its report to the county commissioners. No approval, disapproval or suggestions of the zoning commission shall have more than advisory effect, or shall in anywise bind the county commissioners.

Section 2226. Purposes of Zoning Regulations.—Such regulations shall be designated and enacted for the pur-

pose of promoting the health, safety, morals, convenience, order, prosperity or welfare of the present and future inhabitants of the Commonwealth of Pennsylvania, including, among other things, the lessening of congestion in the streets or roads, or reducing the waste of excessive amounts of roads, securing safety from fire and other dangers, providing adequate light and air, preventing on the one hand excessive concentration of population and on the other hand excessive and wasteful scattering of population or settlement, promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supply, protection of the tax base, securing economy in governmental expenditures, fostering the Commonwealth's agricultural and other industries, and the protection of both urban and non-urban development.

Section 2227. Amendments.—(a) The county commissioners may from time to time amend the number, shape, boundary or area of any district or districts, or any regulation of or within such district or districts, or any other provision of any zoning ordinance, but no such amendment shall be made or become effective until the same shall have been proposed by or be first submitted for approval, disapproval or suggestions to the zoning commission and the Pennsylvania State Planning Board.

(b) Any proposal, approval, disapproval or suggestions of the zoning commission or the State Planning Board shall have advisory effect only and not be binding upon the county commissioners, and unless such zoning commission or State Planning Board shall have transmitted its report upon the proposed amendment within thirty days after the submission thereof to it, the county commissioners shall be free to proceed to the adoption of the amendment without further awaiting the receipt of the report of the zoning commission or State Planning Board. Before finally adopting any such amendment, the county commissioners shall hold a public hearing thereon, at least thirty days' notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county.

Section 2228. Cooperation Between Counties.—The zoning commission of any county may cooperate with the zoning commissions of other counties and with the planning, zoning, legislative and administrative authorities of cities, boroughs, towns or townships or other municipalities, either within or without such county, with a view to coordinating and integrating the zoning of the county with the planning and zoning of other counties or of municipalities. The zoning commission shall also

have power to appoint such committee or committees and adopt such rules for the conduct of its business as it may deem proper to effect such cooperation or to more expeditiously and effectively perform its functions.

Section 2229. The Board of Adjustment.—(a) The county commissioners of the county which enacts zoning regulations under the authority of this subdivision shall provide for a board of adjustment of three to five members and for the manner of the appointment of such members. Not more than half of the members of such board may at any time be members of the zoning commission. The county commissioners shall fix per diem compensation and terms for the members of such board of adjustment, which terms shall be of such length and so arranged that the term of at least one member will expire each year. Any member of the board of adjustment may be removed for cause by the county commissioners upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.

(b) The county commissioners may appoint associate members of such board, and in the event that any regular member be temporarily unable to act owing to absence from the county, illness, interest in a case before the board, or any other cause, his place may be taken during such temporary disability by an associate member designated for the purpose. The boards of county commissioners of two or more counties may arrange and provide for a joint or common board of adjustment of four or five members, which joint or common board of adjustment shall be deemed the board of adjustment of each of such counties.

(c) The county commissioners shall provide and specify in its zoning or other ordinances general rules to govern the organization, procedure and jurisdiction of said board of adjustment, which rules shall not be inconsistent with the provisions of this subdivision, and the board of adjustment may adopt supplemental rules of procedure not inconsistent with this subdivision or such general rules.

(d) Any zoning ordinance of the county commissioners may provide that the board of adjustment may, in appropriate cases and subject to appropriate principles, standards, rules, conditions and safeguards set forth in the zoning ordinance, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The commissioners may also authorize the board of adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or similar questions as they may arise in the administration of the zoning regulations.

(e) Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Section 2230. Appeals to the Board of Adjustment.—

(a) Appeals to the board of adjustment may be taken by any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning ordinance. Appeals to the board of adjustment may be taken by any officer, department, board or bureau of the county affected by the grant or refusal of a building permit or by other decision of an administration officer or agency based on or made in the course of the administration or enforcement of the provisions of the zoning ordinance. The time within which such appeal must be made and the form or other procedure relating thereto shall be as specified in the general rules provided by the county commissioners to govern the procedure of such board of adjustment or in the supplemental rules of procedure adopted by such board.

(b) Upon appeals, the board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency, based on or made in the enforcement of the zoning ordinance.

(2) To hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such ordinance to pass.

(3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this subdivision would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to said property,

a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

(c) The concurring vote of four members of the board in the case of a five-member board and of three members in the case of a three-member board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or agency or to decide in favor of the appellant.

Section 2231. Court Review.—(a) Any persons jointly or severally aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department, board or bureau of the county may present to the court of common pleas of the county in which the property concerning which such decision was made is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such a petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment, and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may on application, on notice to the board and on due cause shown, grant a restraining order.

(b) The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(c) If upon the hearing it shall appeal to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence, as it may direct, and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(d) 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.

(e) All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

Section 2232. Violations; Enforcement and Remedies.

—(a) It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure, or to use any land, in violation of any regulation in or of any provision of any zoning ordinance or any amendment thereof enacted or adopted by any board of county commissioners under the authority of this subdivision. Any person, firm or corporation violating any such regulation, provision or amendment of any provision of this subdivision shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100) or imprisoned not more than ten days, or both. Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense.

(b) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used, in violation of this subdivision or of any regulation or provision of any ordinance or amendment thereof enacted or adopted by any board of county commissioners under the authority granted by this subdivision such board, the district attorney of the county or any owner of real estate within the district in which such building structure or land is situated may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

Section 2233. Nonconforming Uses.—(a) The lawful use of a building or structure or the lawful use of any land as existing and lawful at the time of the enactment of a zoning ordinance, or in the case of an amendment of an ordinance, then at the time of such amendment, may, except as hereinafter provided, be continued, although such use does not conform with the provisions of such ordinance or amendment. Such use may be extended throughout the same building, provided no structural alteration of such building is proposed or made for the purpose of such extension. The county commissioners may provide in any zoning ordinance for the restoration, reconstruction, extension or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning ordinance. The county commissioners may in any zoning ordinance provide for the termination of nonconforming uses, either by specifying the period or periods in which nonconforming uses shall

be required to cease, or by providing a formula or formulae whereby the compulsory termination of a nonconforming use may be so fixed as to allow for the recovery or amortization of the investment in the nonconformance.

(b) If the county acquires title to any property by reason of tax delinquency and such property is not redeemed or sold as provided by law, the future use of such property shall be in conformity with the then provisions of the zoning ordinance of the county or with any amendment of such ordinance equally applicable to the other like properties within the district in which the property acquired by the county is located.

Section 2234. List of Nonconforming Uses.—Immediately after the adoption of any zoning ordinance or amendment by the county commissioners, the county zoning commission shall prepare and publish a complete list of all nonconforming uses and occupations existing at the time of the adoption of such ordinance or amendment. Such list shall contain the names and addresses of the owner or owners of such nonconforming use and of any occupant other than the owner, the legal description or descriptions of the land, and the nature and extent of land use.

After any necessary corrections have been made under a procedure prescribed by the county commissioners, copies of such list shall, when approved by such body, be filed for record in the offices of the recorder of deeds and of the chief clerk in the county in which the lands are situated, and shall be corrected yearly, as the county commissioners may prescribe.

Section 2235. Filing.—Upon the adoption of any zoning ordinance or regulation, map or maps, the county commissioners may file the originals with the chief clerk and a certified copy of each in the office of the county recorder of deeds, which copies shall be accessible to the public. The recorder of deeds shall index such ordinances and regulations as nearly as possible in the same manner as he indexes instruments pertaining to the title of land.

Section 2236. Finances.—The county commissioners are empowered to appropriate out of the general county fund such moneys otherwise unappropriated as it may deem fit to finance the work of the county zoning commission and of the board of adjustment and to enforce the zoning regulations and restrictions which are adopted, and to accept grants of money and service for these purposes and other purposes in accordance with this subdivision from either private or public sources, State or Federal.

Section 2237. Conflict With Other Laws.—Whenever any regulations made under authority of this subdivision

require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings, or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute, the provisions of the regulations made under authority of this subdivision shall govern. Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by \*the regulations made under authority of this subdivision, the provisions of such statute shall govern.

Section 2238. Subdivision Not to Apply to Certain Buildings of Public Utility Corporations.—This subdivision shall not apply to any existing or proposed building or extension thereof used or to be used by public utility corporations if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

Section 2239. Definitions.—The words “amend,” “amendment,” “amendments” or “amended” in this subdivision shall be deemed to include any modification of the text or phraseology of any provision of any zoning ordinance or amendment thereof, or any repeal or elimination of any such provision or part thereof, or any addition to the ordinance or to an amendment thereof, and shall also be deemed to include any change in the number, shape, boundary or area of any district or districts, any repeal or abolition of any map forming part of or referred to in any zoning ordinance or any part of such map, and, in addition to such map, any new map or maps or any other change in the maps or any map.

(c) County Transit and Traffic Commission

Section 2250. Creation of County Transit and Traffic Commission.—There is hereby created a County Transit and Traffic Commission consisting of nine persons who shall be residents of the county, not more than four of whom shall be residents of cities in the county, nor shall more than two be regular employes of any publicly financed body. Members shall be persons experienced in either engineering, commerce, finance, law, transportation or traffic matters, and shall be appointed by the county commissioners. The successors to the members in office when this act becomes effective shall be appointed, at the expiration of their respective terms, to serve six years, and all appointments to fill vacancies shall be only for the unexpired portion of the term. Five members

\* “and” in original.

shall constitute a quorum. The commission may make rules and regulations for their own organization and procedure consistent with the resolutions of the county commissioners and the laws of the Commonwealth. Members shall serve without compensation, and may employ a technical staff and such other persons as may be necessary, whose salaries and wages, together with other necessary expenses of the commission, shall be provided for, in the discretion of the county commissioners, by proper appropriation and resolution.

Section 2251. Duties of the County Transit and Traffic Commission.—(a) The duty of the Transit and Traffic Commission shall be to investigate transit, traffic and parking conditions in the county, including the volume and characteristics of the movement of public carriers such as street railways, train, bus and other motor vehicles throughout the county, with a view of determining advisable means for obtaining adequate, rapid and safe transportation, to consider fully the coordination of existing transportation services, to investigate and study safety measures for persons and vehicles on highways, streets and thoroughfares in said county, to advise with officials of political subdivisions in the county about the transit, traffic and parking problems.

(b) All minutes, reports and recommendations made by the commission shall be a matter of public record. Periodically, but not less than once a year, the commission shall file with the county commissioners a report of its investigations. This report shall include the results of investigations made by the commission and any recommendations the commission may have to offer.

(c) The county commissioners shall refer any plan, proposal or resolution affecting public transportation and the safety of the public on public transportation facilities and on highways, bridges and tunnels in the county to the County Transit and Traffic Commission for its consideration and recommendation. The Transit and Traffic Commission shall report to the county commissioners on the plan, proposal or resolution within a reasonable period of time.

## Article XXIII

### Public Health

#### (a) General Provisions

Section 2301. Health Work.—The county commissioners may provide and annually appropriate from any moneys in the county treasury not otherwise appropriated such sum or sums as they deem necessary for the protection of the health, cleanliness, convenience, comfort and safety of the people of the county.

**(b) County and Joint County Hospitals**

**Section 2310. Contagious Disease Hospital or Building, Wing or Unit.**—Whenever, in the opinion of the board of commissioners of the county or the boards of commissioners of two or more counties, a hospital for the care and treatment of contagious diseases appears to be necessary or advisable, the board of commissioners of the county or the boards of commissioners of two or more counties jointly may either erect, construct and equip such a hospital on the grounds of the county institution district of any of the counties joining, or may purchase a suitable site for such purpose in some other locality. In lieu of erecting and constructing a separate contagious disease hospital, the board of commissioners of a county or the boards of commissioners of two or more counties jointly may enter into an agreement with a general nonsectarian nonprofit hospital or hospitals within the county or within any of such counties or any adjoining county, and may appropriate county moneys to such hospital or hospitals, for the erection, construction and equipment of a building or wing or unit for the care, isolation and treatment of contagious disease cases. In any such contagious disease hospital or building, wing or unit, provision shall be made for the care and treatment of indigent persons and of persons who are able to pay for their care and treatment in whole or in part.

The county commissioners may in like manner join in establishing, maintaining, equipping and operating a contagious disease hospital with any municipality within the county.

**Section 2311. Plans and Specifications; Approval; Construction.**—Plans and specifications for any county or joint county hospital or building, wing or unit at a general hospital shall be prepared by the board or boards of commissioners or at their instance, or by the general hospital with which an agreement has been made, as the case may be, which plans and specifications must be submitted to the Secretary of Health of the Commonwealth. The cost of the preparation of such plans shall be paid by the county or counties so joining. Upon the approval of said plans and specifications by the Secretary of Health of the Commonwealth, any county or joint county contagious disease hospital may be constructed and equipped in the same manner that any other county buildings are constructed and equipped, and in the case of a building, wing or unit at a general hospital, the same shall be constructed and equipped by the authorities in charge of the general hospital, as may be provided in the agreement with the county or counties joining. But in either event, the expense and cost of such

erection, construction and equipment and the cost of the site, if any, shall be paid by the board or boards of commissioners out of county funds.

Section 2312. Expenses of Maintenance, Care and Treatment.—All expense incident to the maintenance and operation of any such county or joint county contagious disease hospitals and of buildings, wings and units at general hospitals shall be paid by the county or counties so joining, as may be provided in any agreement, out of county funds. The county or counties so joining shall be liable for the cost of operating any such county or joint county contagious disease hospital, and each county shall separately be liable to pay the cost of the care and treatment of its indigent patients and those unable to pay the entire cost of care and treatment in such contagious disease hospitals and in buildings, wings and units at general hospitals, and for such purposes any county or the counties so joining shall have power to appropriate county funds.

Section 2313. Administration of County and Joint County Hospitals.—After any such county hospital is erected and equipped and ready for occupancy, it shall be operated by and under the authority of the county commissioners of the county in the same manner that other county buildings and institutions are operated, and in the case of joint county hospitals, the operation shall be in the manner provided in the agreement between the counties. All county or joint county contagious disease hospitals heretofore erected and constructed shall hereafter be maintained and operated in the manner provided by this act.

Section 2314. County Agreements for Joint Contagious Disease Hospitals, Buildings, Wings and Units.—Whenever the county commissioners of two or more counties decide that a hospital or a building, wing or unit at a general hospital for the care and treatment of contagious diseases is necessary, they shall enter into an agreement for such purposes and therein provide how and in what proportions each county shall bear the expenses incident to the construction, operation and maintenance of the joint hospital, building, wing or unit for contagious diseases.

Section 2315. County Hospital for Tuberculosis.—Whenever one hundred or more citizens, residents of a county, petition the county commissioners for the establishment of a county hospital for the treatment of persons afflicted with tuberculosis, the county commissioners shall, at the next general or municipal election, submit to the voters of the county the question whether or not the county shall establish such a hospital. Such question shall be printed at the foot of the ballot and shall be in the form provided by the general laws for the submission

of such question. The vote on such question shall be counted, returned and computed in the manner prescribed by the general election laws of the Commonwealth.

Section 2316. Power to Acquire Site.—If a majority of the electors voting upon such question at such election shall vote in favor of the establishment of such a hospital, the county commissioners shall acquire a site for such hospital, either by purchase or condemnation; in case such site shall be acquired by condemnation, the procedure for the assessment of damages for the property taken shall be as prescribed by article XXVI of this act.

Section 2317. Advisory Board.—If a majority of the electors voting upon such question at such election shall be in favor of the establishment of a hospital, the court of common pleas of the county shall immediately appoint an advisory board of five members, all of whom shall be electors of the county and one of whom shall be a licensed physician. The members of said board shall be appointed, one for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, or until their successors are appointed and have qualified. All appointments at the expiration of any term shall be for a term of five years.

The board shall meet monthly and at such other times as it may be deemed necessary. The board shall visit and inspect and keep in close touch with the management and operation of said hospital, and shall, from time to time, make such recommendations and suggestions to the county commissioners for changes or improvements in said management and operation as may be deemed advisable. It shall also make an annual report to the county commissioners concerning the management and operation of said hospital.

The county commissioners shall, at the expense of the county, provide a meeting place for said board, and furnish all supplies and materials necessary to carry on its work.

The members of the board shall not receive any compensation for their services but shall be allowed all actual and necessary expenses incurred in the discharge of their duties, which shall be paid by the county.

Section 2318. Site and \*Plans; Approval.—If a majority of the electors voting upon such question at such election shall be in favor of the establishment of the hospital, the county commissioners shall, after consultation with the advisory board, select a site for such hospital and shall have plans and specifications prepared

\* "Plan" in original.

for such hospital, but no such hospital shall be erected until such plans and specifications and the site therefor have been first approved by the Secretary of Health and the county controller.

Section 2319. Construction and Equipment.—Any such hospital shall be constructed by contract or contracts let by the county commissioners to the lowest responsible bidder, as provided by this act, and when so constructed, the hospital shall be equipped by the county commissioners, at the cost of the county, in the same manner as other county buildings are equipped.

Section 2320. Employes' Salaries.—The county commissioners may, after consultation with the advisory board, \*employ a superintendent and such physicians, nurses and other employes as may be necessary to properly conduct and manage such hospital. The compensation of such employes shall be fixed by the salary board and such salaries shall be paid from the county treasury.

Section 2321. Management.—The county commissioners shall have power, after consulting with the advisory board, to make general rules and regulations for the management of the hospital, and shall have power to do all acts deemed necessary to promote the usefulness of the hospital in the prevention of tuberculosis.

Section 2322. Use of Hospital.—Every hospital established under the provisions of this act shall be used for the benefit of all inhabitants afflicted with tuberculosis resident within the county in which the hospital is located, and all such persons shall be entitled to occupancy, nursing, care, treatment and maintenance according to the rules and regulations prescribed by the county commissioners. The county commissioners may exclude from the use of the hospital any person who wilfully violates any rule or regulation adopted for the hospital by said county commissioners. The county commissioners may charge and collect, from persons admitted to the hospital or persons legally responsible for their maintenance, reasonable compensation for the care, treatment and maintenance of such persons, but free treatment shall be given to all such persons who are, after reasonable investigation, found to be unable to pay.

Section 2323. Patients From Other Counties; Donations.—The county commissioners may admit patients to said hospital who are resident within any other county of the Commonwealth, provided such other county agrees to reimburse the county in which the hospital is located for all charges in connection with the admission, maintenance, care and treatment of such patients. Authority is hereby conferred upon all counties in the State to pay to any other county in which such hospital is located

\* "employe" in original.

reasonable charges for patients cared for by said hospital resident in the county paying such charges. All money received from the care and maintenance of patients or from gifts or donations shall be paid into the county treasury and shall be used only for the maintenance of such hospitals. County commissioners are authorized and empowered to receive contributions, donations, property and trust funds for the erection and maintenance of hospitals as provided in this act.

Section 2324. Appropriations; Tax Levy.—The advisory board herein provided for shall, by December thirty-first of each year, furnish to the county commissioners and the county controller a schedule of expenses deemed necessary for the maintenance and operation of the hospitals for the ensuing year, and the county commissioners shall, after considering the schedule submitted by the advisory board, annually make appropriations deemed by them sufficient to properly manage and operate said hospital. The county commissioners shall levy a special tax sufficient to produce the moneys appropriated to said hospital, which tax shall be collected in the same manner as other county taxes and shall be paid into the county treasury. All payments from the county treasury shall be made by warrant of the county commissioners, countersigned by the county controller.

Section 2325. Increase of Indebtedness.—The county commissioners of every county establishing a hospital as provided for in this act may incur or increase the indebtedness of the county, in accordance with the Municipal Borrowing Law, to an amount sufficient to pay the cost of acquiring a site and of erecting, constructing and equipping the said hospital, by issuing coupon bonds at a rate of interest not exceeding six per centum and payable within thirty years from the date of issue. The county commissioners shall levy an annual tax in an amount necessary to pay interest and sinking fund charges upon such bonds.

(c) County Health Aid to Institutions and  
Political Subdivisions

Section 2330. Appropriations to Hospitals, Tuberculosis Sanitaria and Homes.—The commissioners may appropriate moneys for the support of any hospital located within or without the limits of such county which is engaged in charitable work and extends treatment and medical attention to residents of such county, and may also appropriate moneys for the support of any home or place of detention of dependent, delinquent and neglected children located within the county, and may also appropriate moneys for the support of any sanitarium for the treatment of persons afflicted with tuber-

culosis located within the Commonwealth of Pennsylvania, which sanitarium is engaged in charitable work and extends treatment and medical attention to residents of such county.

Section 2331. Appropriation to Society Maintaining Tuberculosis Sanitorium for Indigent.—The commissioners may appropriate to any duly incorporated society chartered to maintain a sanitorium for the treatment therein of persons suffering from tuberculosis so much money as may be necessary for the maintenance of indigent persons, residents of the county, who may be inmates of such sanitorium and under treatment for tuberculosis. The commissioners shall at all time have free access to such sanitorium for inspection of its management and for the ascertainment of the number of indigent persons receiving treatment therein.

Section 2332. Aid to Boroughs and Townships for Sewage Purposes.—The board of county commissioners may appropriate moneys from the county treasury to aid cities of the third class, boroughs, incorporated towns or townships in the construction or maintenance of sewers or sewage treatment works, where such sewers and treatment works have been first approved by the Sanitary Water Board of the State Department of Health in the manner provided by law.

Section 2333. Aid to Townships for Water Systems.—The county commissioners may appropriate moneys from the county treasury to aid townships to construct or complete water systems, where such water systems have been first approved by the State Department of Health.

#### (d) Joint Management of County and City Hospitals

Section 2350. Joint Management of Hospitals with Cities.—In the county where the county seat is, within the limits of any city, the county commissioners and the proper corporate authorities of such city shall have the power and they are hereby authorized to agree upon the administration, management, maintenance, control and operation of any or all city hospitals and institutions and of any or all county hospitals and institutions within the county under one board of managers, and to share the expenses thereof in such manner and proportions as shall be agreed upon.

Section 2351. Board of Managers; Appointment and Terms.—The board of managers shall consist of seven members. Three members, one of whom shall be a member of the board of county commissioners, shall be appointed by the county commissioners. Two members shall be appointed by the mayor of such city. One member, who shall be a member of city council, shall be ap-

pointed by the council of such city. One member shall be appointed by the county commissioners and mayor jointly. In acting on the appointment of such last member, the three county commissioners together shall have one vote and the mayor shall have one vote.

The members of the board shall be appointed for terms of four years and shall serve without compensation.

The board shall organize each year by electing one of its members chairman and another member secretary of the board.

Section 2352. *Employes; Appointment; Salaries.*—

(a) The board of managers shall employ a superintendent for each hospital and institution under its control, and such medical, surgical, nursing and other staffs and such other employes as they deem necessary for the proper conduct of the activities of the respective hospital or institution.

(b) All persons appointed by the board shall be qualified according to standards, not inconsistent with law, adopted by the board, and pursuant to such oral or written examinations as the board shall prescribe. In so far as possible, vacancies shall be filled by promotions from among the then employes of the board.

(c) The salaries or other compensation of all appointees of the board shall be fixed by the board, subject to the approval and ratification by the salary board of the county and the proper corporate authorities of the city, and shall be paid by the county and city in such proportions as shall be agreed upon by the county commissioners and such corporate authorities.

Section 2353. *Rules and Regulations.*—The board of managers shall, subject to the approval of the county commissioners of the county and the proper corporate authorities of the city, make such by-laws, rules and regulations for the management of the several hospitals and institutions as it may deem advisable.

Section 2354. *Civil Service Act Not to Apply.*—The right of appointment by the board of managers of a superintendent for each hospital and institution, surgical, nursing and other staffs and other employes shall not be limited or restricted in any manner by the requirements of the present civil service act applicable to any city, nor shall any such act apply to any person so appointed.

Section 2355. *Hospitalization of Persons with Infectious Diseases.*—The county commissioners of the county are hereby authorized to enter into contracts with the proper authorities of any city within the county for the hospitalization of persons suffering from any infectious disease and to make appropriations for such purposes.

## Article XXIV

## Aeronautics

Section 2401. Authority to Establish Airports.—Subject to the provisions of The Aeronautical Code, the county shall have the right and authority to establish, construct and provide for air navigation facilities in accordance with the provisions of this article.

Section 2402. County May Hold or Acquire Lands for Air Navigation and Terminal Facilities.—(a) The county may use for the purpose of any air navigation and terminal facilities any land within the county and owned by the county when the county commissioners determine such land necessary for such purposes.

(b) The county may appropriate for the purpose of any air navigation and terminal facilities any lands purchased by it at any tax sale and not redeemed within the period of redemption, if any, provided by law.

(c) The county may acquire by gift, lease, purchase or condemnation proceedings any land lying within its territorial limits or the territorial limits of any adjoining county which, in the judgment of the county commissioners, may be necessary and desirable for the purpose of establishing and maintaining air navigation and terminal facilities or of enlarging them, but no such land shall be so acquired in any adjoining county without the assent of the county commissioners thereof.

Section 2403. Condemnation Proceedings; Title.—The proceedings for the condemnation of lands under the provisions of this article and for the assessment of damages for property taken, injured or destroyed shall be conducted in the same manner as provided under Article XXVI.

The title acquired by virtue of any such condemnation shall be a title in fee simple.

Section 2404. Agreements for Air Navigation and Terminal Facilities.—The county acquiring land for any air navigation and terminal facilities may enter into agreements in the form of a lease, permit, license, concession or otherwise for the use of the same or part thereof, for an adequate consideration, with any person or corporation desiring to use the same for any air navigation and terminal purpose or of any air navigation and terminal facility, on such terms and subject to such conditions and regulations as may be provided. The county may enter into a contract in the form of a lease or otherwise providing for the use of said land or any part thereof by the government of the United States for air-mail delivery or other air navigation and terminal purposes, upon nominal rental or without consideration.

Section 2405. Joint Operation; Leasing.—The county acquiring land for any air navigation and terminal facili-

ties may operate and maintain such facilities jointly with any city, county, borough, township or other political subdivision, upon such terms and conditions as may be agreed upon by the corporate officials thereof and the county commissioners of the county, and such joint facilities may be operated as hereinbefore provided upon the joint action of the corporate officials involved and the county commissioners.

Section 2406. Engineering and Construction Appropriations.—The county acquiring any land for any air navigation and terminal facilities may, by resolution of the board of commissioners, appropriate such funds as are necessary for the engineering design, surveys and construction of such facilities, either wholly by themselves or in cooperation with State, Federal or other public agencies supplying a portion of the necessary funds for said work.

Section 2407. Contracts for Construction and Repairs.—In establishing, maintaining and operating air navigation and terminal facilities where construction and repair of roadways, runways, buildings and facilities or the purchase thereof are deemed necessary within or for use within the limits of land acquired for such purpose, there shall be no necessity for submission thereof to the court of quarter sessions of the county, but contracts therefor shall be entered into as provided in Article XX herein, and in the case of joint establishment, operation and maintenance with any other political subdivision, contracts relating thereto shall be entered into as provided for the general business of any of such participating political subdivisions.

Section 2408. Validation of Contracts.—Any contracts heretofore entered into for construction and repair of roadways, runways, buildings and facilities or the purchase thereof within or for use within the limits of land acquired for the establishment and operation of airdromes or landing fields, without first having obtained the approval of the court of quarter sessions of the county and entered into as provided for the general business of the county or other political subdivisions jointly interested, are hereby ratified, confirmed, approved and declared lawful contracts.

## Article XXV

### Grounds, Property and Buildings

#### (a) General Provisions

Section 2501. Title to Real Estate Vested in County.—The title to all courthouses, jails, prisons and workhouses, together with the lots of land thereunto belonging or appertaining, and all other real property acquired or that may hereafter be acquired by or for the use of

the county, shall be vested in the county for the use of the people thereof and for no other use, except as hereinafter provided.

Section 2502. Insuring Buildings and Contents.—The county commissioners may provide insurance against fire and extended coverage against public liability and such other forms of insurance, including insurance against burglary, as shall seem proper to them for county buildings and the contents, real and personal, thereof. The cost of such insurance shall be paid from the general funds of the county.

Section 2503. Credit of County Available for Grounds and Buildings.—In the acquisition, construction or alteration, as the case may be, of land and buildings for county purposes, the commissioners may issue bonds of the county, in accordance with the Municipal Borrowing Law, to meet the costs thereof, except as any other system of financing shall be expressly provided by law.

(b) Acquisition, Use, Leasing and Disposing  
of Property for County

Section 2505. Acquiring and Using Real Property; Court Approval; Exceptions.—(a) The county commissioners may purchase, take by gift, devise or by the power of eminent domain, in accordance with the provisions of this act, such real property at the county seat or in such other places, as may be authorized by law, as they deem necessary for the purposes of a county courthouse, county jail, prison, workhouse, detention house or other county building, either in acquisition of a building suitable for such purposes or in the construction of a new building, or in the alteration, including enlargement, of an existing county building. Any purchase herein authorized shall be subject to the approval of the court of common pleas of the county as to purchase price, and no such contract shall bind the county, nor shall any conveyance be valid until the court has so approved the purchase price.

(b) The county commissioners may also use any real property at the county seat or elsewhere, as authorized by law, owned by the county, and deemed suitable by them for the purposes aforesaid, except such property as is bound by contract to another public use.

(c) The county commissioners may provide for the grading, filling, draining, gardening and otherwise improving and maintaining of all lands for county buildings, either by contract or by county employes, as they deem proper.

(d) To the extent that any of the matters provided for herein are otherwise specifically provided for by law, with regard to any particular acquisitions of real prop-

erty by counties, either by tax sales or by other purchases, this section shall not apply to such matters.

Section 2506. Authority to Sell or Lease Real Property.—(a) The board of commissioners may sell or lease, either as lessor or lessee, any real property belonging to the county or to others where the county is lessee. Any sale herein authorized shall be by petition to the court of common pleas, setting forth a description of the property to be sold and the reason therefor; the court shall thereupon fix a day for hearing and notice of which shall be given in at least two newspapers, in the county, of general circulation, once a week for three consecutive weeks. After hearing, the court shall make such order and decree as shall seem right and proper.

(b) In the case of any lease of real property by the county hereunder, such property, with any and all improvements or additions thereon or thereto, shall, in the hands of the lessee, be subject to taxation by such county and any other municipal or political subdivision therein, in the same manner as all other real estate located in such county, all of which taxes shall be levied and assessed against and paid by the lessee.

(c) This section shall not apply to leases or sales of county property or other property which are otherwise specifically provided for by law.

Section 2507. Conveyance and Lease of Real Estate.—The commissioners shall make and acknowledge a deed or lease of any real estate belonging to the county which they are authorized to sell or lease, under their hands and seals as commissioners, with the seal of the county attached, and the same shall be a good and lawful conveyance in fee simple or lease.

Section 2508. Conveyances to General State Authority.—The county may grant, assign and convey to the General State Authority, with or without consideration, any lands, easements or rights in lands, together with any improvements, buildings or structures therein or thereon, now owned by such county or hereafter acquired by it, needed or convenient as a site for a county courthouse, or may lease to the Authority, for a term not exceeding ninety-nine years, at a nominal or such other rental as may be determined, any or all such lands, easements or rights in lands, together with any improvements, structures or buildings therein or thereon.

Section 2509. Leasing from General State Authority.—The county may enter into contracts with the General State Authority to lease as lessee from the Authority any county courthouse or any improvement thereto and the furnishings and equipment thereof, constructed by the Authority, for a term not exceeding thirty years, at such rental or rentals as may be determined by the Authority. Upon the completion of such county courthouse

or improvements and the furnishings and equipment thereof, the county may lease the same as lessee from the Authority for a term, not exceeding thirty years, at such rental or rentals as may be determined by the Authority.

Section 2510. Acquisition of Lands for Conveyance to General State Authority.—The county may acquire lands or interests in lands by purchase, gift or condemnation, which may be required to carry out the purposes of the two sections immediately preceding.

Section 2511. Sale of Personal Property; Demolition and Removal of County Buildings.—(a) The county commissioners may sell at private sale any county owned personal property valued by the controller at not more than five hundred dollars (\$500), or at public sale, under conditions prescribed by the commissioners, any county owned personal property valued by the controller in excess of that amount.

(b) Whenever any county owned building valued by the controller at not more than one thousand dollars (\$1000) is deemed by the county commissioners to be no longer suitable for use by the county, they may cause it to be demolished or removed from its location by such means or in such manner as they deem to be in the public interest. Any such county owned building valued by the controller in excess of that amount may be so demolished or removed with the approval of the court of quarter sessions of the county.

(c) Construction or Alteration of County Buildings

Section 2515. Authority for Constructing County Buildings.—Whenever the board of commissioners are authorized and required to erect a courthouse, jail or other county building, they shall submit the plans and specifications adopted by them to the court of common pleas for its approval. Upon approval, the county commissioners shall let the work by contract to the lowest responsible bidder, in accordance with the provisions of this act.

Section 2516. Right to Build on Public Squares.—Whenever the courthouse, jail or other building of the county is located upon a public square or common in the city, borough or township, then being the county seat, and a new building is authorized and required to be erected in place of such courthouse, jail or other building, the board of county commissioners may erect such new building upon any other of the public squares or commons of said city, borough or township, or upon any part thereof, if the council of the city, borough or township shall have first consented to such new location for said building.

Section 2517. Separate Specifications and Contracts for Certain Items.—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 (\$1000), the architect, engineer or other person preparing such specifications shall prepare separate specifications for the plumbing, heating, ventilating and electrical work. The board of commissioners shall receive separate bids upon each of the said branches of work and award the contract for the same to the lowest responsible bidder for each of said branches.

Section 2518. Additional Bond to Protect Labor and Materialmen on Contracts.—(a) It shall be the duty of the county to require any person, copartnership, association or corporation entering into contract with such county for the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement, of any kind whatsoever, where the amount of such contract is in excess of five hundred dollars (\$500), before commencing work under such contract, to execute and deliver to such county, in addition to any other bond which may now or hereafter be required by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association or corporation interested, in a sum not less than fifty per centum and not more than one hundred per centum of the contract price, as such county may prescribe. Such bond shall have as surety thereon one or more surety companies legally authorized to do business in this Commonwealth, and shall be conditioned for the prompt payment for 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.

(b) Such additional bond shall be deposited with and held by the county for the use of any party interested therein.

(c) 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 county, 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 thereon, but the county shall not be liable for the payment of any costs or expense of any suit.

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

Section 2519. Compliance with Workmen's Compensation Law.—(a) All contracts executed by the board of commissioners which shall 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 work covered by any such contract is concerned, the provisions of the Workmen's Compensation Act and any reenactments, supplements or amendments thereto, and that the said contractor will insure his liability thereunder or file with the board of commissioners a certificate of exemption from insurance from the Department of Labor and Industry of the Commonwealth.

(b) The board of commissioners, before signing on behalf of the county any contract requiring in its performance the employment of labor, shall require proof that the said contractor with whom the contract is made shall have accepted the Workmen's Compensation Act and any reenactments, supplements or amendments thereto, and proof that the said contractor has insured his liability thereunder in accordance with the terms of said act or that the contractor has had issued to him a certificate of exemption from insurance from the Department of Labor and Industry.

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

Section 2520. Restrictions on Letting Contracts to Architects and Engineers.—It shall be unlawful for any architect or engineer in the employ of the county and engaged in the preparation of plans, specifications or estimates, or for any officer or employe of the county, directly or indirectly, to bid on any public work at any letting of such work by such county. It shall also be unlawful for the officers of the county charged with the duty of letting any public work to award a contract to any such architect or engineer in the employ of the county.

It shall not be lawful for any architect or engineer in the employ of the county to be in anywise interested in any contract for public work nor receive any remuneration or guaranty from any person interested in such contract.

Any person or persons violating these provisions or either of them shall forfeit his office and shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500) or to undergo imprisonment of not less than six (6) months, or both, in the discretion of the court.

(d) Policing, Administration and Public Order  
of Grounds and Buildings

Section 2525. Buildings and Grounds to be Kept in Order and Repair.—The commissioners shall keep and maintain the public buildings of the county in suitable and convenient order and repair and shall keep the

grounds about county buildings in proper condition and appearance.

Section 2526. Watchman and Employes.—The commissioners may appoint one or more officers or watchmen to guard and protect the county buildings and to enforce the provisions of this act and other laws relating thereto. Such officers or watchmen shall have power to arrest on view any person violating the same.

The commissioners shall employ all janitors, firemen, engineers, mechanics, laborers and caretakers of all county buildings and grounds.

Section 2527. Display of Municipal Flags on County Buildings Authorized.—It shall be lawful to display the flag of any county, city, borough or other municipality in the Commonwealth on the public buildings of any county.

Section 2528. Buildings and Improvements of Workhouses and Inebriate Asylums.—The county commissioners are hereby authorized and directed, for the purpose of enabling any corporation and body politic having the control and management of a workhouse and inebriate asylum as established under existing law to acquire lands or buildings or to erect buildings or construct or make any improvements that may be deemed necessary by such corporation, to issue bonds and to sell and dispose of the same in the manner provided by law and pay over the proceeds thereof to the said corporation for any of the purposes aforesaid.

Section 2529. Disorderly Conduct In and About Courthouses and Jails Prohibited.—It is unlawful for any person to cause any outcry or disorder, or be guilty of any indecent or unbecoming conduct tending to disturb the peace and good order, in the county courthouse, jail or other county buildings, or to wilfully or carelessly defile, deface or injure the floors, walls or any other portion of said buildings, or fences or railings surrounding the same, or the carpets, furniture or other articles or things used in or about said buildings, belonging to the county. Any person violating any of the provisions of this section shall make restitution for damages arising therefrom and shall, upon summary conviction thereof, be sentenced to pay a fine not exceeding fifty dollars (\$50). In case such person shall neglect or refuse to pay the same, he or she shall suffer an imprisonment not exceeding thirty (30) days.

(e) Special Provisions for Temporary County Buildings and for Rooms in County Buildings

Section 2535. Temporary Courthouse.—Whenever the courthouse or place appointed by law for holding any of the courts shall be unsafe, shall have been destroyed, or is under repairs, the board of commissioners shall pro-

cure some other convenient place at the county seat, to be approved by the court, for temporary use, for holding and administering such courts.

**Section 2536. Separate Rooms for Women Jurors.**—The commissioners shall provide and maintain a separate room or rooms at or adjoining the courthouse, upon order of the court, for the comfort, accommodation and convenience of women jurors, and such rooms shall be provided with suitable furniture for the use of women jurors who may be serving upon juries unable to bring in verdicts upon the day in which the case was placed in their hands. These rooms shall also be equipped with mirrors, toilets, beds and other conveniences necessary to provide for the safety, comfort and convenience of the occupants thereof.

**Section 2537. Room or Building for Juvenile Offenders Waiting Trial.**—The commissioners shall provide, furnish and heat within the county a separate room or rooms or a suitable building to be used exclusively for the confinement of any and all children under the age of sixteen years who may be in custody awaiting trial or hearing in the courts of the county, and provide for the maintenance and care of such children while in custody.

**Section 2538. Management of Houses for Detention of Juveniles; Appointment of Board; Ex-officio Members.**—The management of houses for the detention and reception of juveniles under the age of sixteen years awaiting trial, hearing or judicial investigation, heretofore or hereafter established under existing law to which this is a supplement or its amendment or under the provision of any other law of the Commonwealth, shall be in a board of managers consisting of six citizens of the county, at least two of whom shall be women, appointed by the judges of the court of common pleas of the county. The members of the board or boards of managers existing in the county shall remain as members of the board or boards of managers created herein until the expiration of the terms to which they were respectively appointed. Annually thereafter, they or their successors shall be appointed for a term of three years. Vacancies occurring in the membership of the board shall be filled by the judges of the court of common pleas for the unexpired term. The members of the board shall serve without compensation. The county commissioners and the controller shall be members ex-officio of the board of managers with the same rights, powers and privileges given to and possessed by the six members of the board appointed by the court.

**Section 2539. Appointment and Compensation of Employees.**—The board of managers may appoint a su-

perintendent and such additional staff members as may be necessary, whose salaries shall be paid by the county. The number and compensation of such employes shall be fixed by the salary board of the county.

Section 2540. Annual Report; Expenses.—The board of managers shall annually report to the county commissioners, on or before the first day of November, the amount of money required for the maintenance of such house or houses of detention. The county commissioners shall make an annual appropriation to the board of managers for the payment of the expenses of administering such house or houses of detention. Expenses incurred in the performance of duties by the board of managers shall be itemized and presented with vouchers to the county commissioners for payment, and a semi-annual report thereof shall be made to the county commissioners. All expenses in connection with the management and administration of any such house of detention shall be paid by the county in the manner provided by law for the payment of county obligations.

Section 2541. Appropriation and Bond Issues.—The county commissioners shall have power and authority, for the purpose of housing such children, to appropriate money from the public funds or to issue bonds in the manner provided by law for the purchase of lands or erecting, constructing and equipping a building or buildings thereon.

Section 2542. Rooms for Justices and Judges.—The county commissioners shall furnish an office for each of the judges of the Supreme Court, the judges of the Superior Court, of the court of common pleas and orphans' courts, and the County Court of Allegheny County in the courthouse at the county seat of the county in which such justices or judges respectively may be resident and wherein the business of the courts may be largely transacted. In case no such office is available in the courthouse, they shall, at the proper cost of the county, furnish an office in such building as may be selected by the respective justices or judges and county commissioners.

The county shall likewise furnish and pay for such janitor service, stationery, telephone, telegraph, clerical and other services as shall be deemed necessary by such public officers for the discharge of the duties of their offices. The compensation for any clerical services shall not exceed that ordinarily paid to an official court stenographer of the county, as shall be determined by the salary board or by order of court under existing laws.

Section 2543. Furnishing Rooms for Meetings of Certain Veterans and of Sons of Veterans.—The commissioners may in their discretion, upon application there-

for, furnish to each organization composed of veterans of the Spanish-American War, veterans of World War I and of World War II, or of any other war in which the United States engaged, and Sons of Union Veterans, a room or rooms in any public building of such county, sufficient for the meeting of each of such organizations at least once each month.

(f) Improvement of Streets Along County Buildings; Street Lighting

Section 2545. Joining With City in Improving Certain Streets and Highways.—(a) The board of commissioners of the county may erect public buildings in any city, with the approval of the court of common pleas. The county may join with the proper authorities of such city in the grading, regrading, paving, re-paving and improvement of so much of the streets and highways as are in, upon or alongside of the grounds upon which said public buildings stand.

(b) The commissioners may enter into contract with any such city authorities for the payment of a just proportion of the expense of said grading, re-grading, paving, re-paving and improvement of said streets and highways, and may appropriate from the county treasury sufficient funds for this purpose. They may act with any committee or committees which may be appointed by such city authorities to establish grades, determine the kind and quality of paving materials to be used, and ratify the contracts entered into by said city authorities in the course of said improvements.

(c) No obligation shall rest upon the county for any proportion of the expenses of such improvements until the selection of grades and paving materials and the acceptance of bids by said city authorities shall have been ratified by the board of commissioners and approved by the court of common pleas.

Section 2546. Ornamental Illumination.—(a) Whenever the courthouse, jail, workhouse or other public building of the county abuts upon the street of a city or borough which is the county seat and which shall provide for the ornamental illumination of that section of the street whereon the county building abuts, the county commissioners of the county may appropriate moneys from the county funds towards the installation of such ornamental illumination.

(b) The appropriation by the county commissioners of the county for such purpose shall not exceed the amount that shall be assessed for such ornamental illumination upon owners of an equivalent frontage of property abutting upon said street, measured by the foot front rule.

(g) Comfort Stations, Parks and Comfort Houses

Section 2550. Parks and Comfort Houses.—(a) The commissioners may purchase land to be used for park purposes or for the erection thereon of public comfort houses. The land purchased for such purposes shall lie within the limits of such county and shall be contiguous to or in the vicinity of a county road and shall be outside the corporate limits of any city or borough. The amount that may be expended for such purposes shall not exceed the sum of twenty-five thousand dollars (\$25,000) in any one year, nor the sum of five thousand dollars (\$5,000) for any single park or any single comfort house. The board of commissioners shall agree with the owner or owners of the land selected upon a reasonable price to be paid therefor. The county may erect and maintain on the land such buildings as are necessary to fulfill the purpose for which the land was acquired.

(b) The commissioners may adopt reasonable rules and regulations necessary for preservation, management and control of parks and public comfort houses so established and maintained, and provide penalties for the breach thereof. All rules adopted by the board of commissioners shall, before becoming operative, be published once a week for three consecutive weeks in three newspapers of general circulation in the county, and shall be recorded in the office of the recorder of deeds in the county.

(c) Any person violating any rules so adopted shall, upon summary conviction, be sentenced to pay a fine of not less than five dollars (\$5) nor more than twenty-five dollars (\$25), which shall be payable to the county treasurer, who shall add the fine to the fund for the improvement of county roads.

(h) Monuments and Memorials

Section 2555. Monuments and Memorials to War Veterans.—The commissioners may appropriate money for and provide for the erection of monuments or memorials commemorating the services of any person who has served in the armed forces of the United States or in any women's organization officially connected therewith during any part of any war in which the United States has been or may hereafter be engaged. The style and character of such monuments or memorials shall be approved by the State Art Commission.

Section 2556. Assistance to Private or Municipal Agencies.—The commissioners may, in order to prevent duplication, appropriate money to assist any individual, private corporation, city, borough or township in the erection of any monument or memorial for said soldiers, sailors and marines. Before any such appropriation is

made, the style and character of such monument or memorial shall be approved by the State Art Commission.

Section 2557. **Erection or Completion of Monuments and Memorials on Petition to Court.**—Upon the petition of at least fifty citizens of the county to the court of quarter sessions for the erection or completion and maintenance of a memorial monument or memorial hall in honor of the soldiers, sailors or marines of the county who served in any war in which the United States has been or may hereafter be engaged, the court shall lay the same before the grand jury, and, if approved by two successive grand juries and the court, the board of commissioners may erect or complete any monument now partly erected but not completed and maintain at the county seat a suitable monument or memorial in honor of said soldiers, sailors and marines.

Section 2558. **Election on Memorial Hall; Purchase or Condemnation of Site.**—(a) When the petition provided for in the preceding section has been approved by the court of quarter sessions, the board of commissioners shall submit the question of the erection of a memorial hall to the electors of the county at the next election, and if a majority of the votes cast on the question of the erection of a memorial hall shall be in favor of the same, the board of commissioners shall erect at the county seat a memorial hall, and acquire, by purchase, donation, or by condemnation under the right of eminent domain, the necessary site, and erect and maintain thereon a suitable and proper memorial hall or building in memory of the soldiers, sailors and marines of any such wars.

(b) In case said election shall result adversely and a second petition shall be presented, the same shall be laid before two successive grand juries, and if approved, then it shall be the duty of the county commissioners to again, in like manner, submit the question to vote at the next general or municipal election, and if the result shall be favorable, then it shall be the duty of the county commissioners to erect such hall at such place in the county as shall have been designated upon the ballot in the question submitted to the electors.

(c) All proceedings for the condemnation of any property under the provisions of this section shall be in accordance with Article XXVI of this act.

Section 2559. **Existing Building May be Used.**—If the site so secured has a hall or building already erected thereon which can be altered and improved so as to be made suitable for such memorial hall, the board of commissioners may acquire such site, in manner aforesaid, for the purpose of a memorial hall.

Section 2560. **Donations.**—For the purpose of aiding in paying the purchase money and price for the site and erection and construction of such memorial hall, volun-

tary donations and contributions may be accepted by the board of commissioners from individuals, associations and organizations.

Section 2561. Maintenance of Hall.—Such memorial hall shall be and remain the property of and shall be maintained at the expense of the county.

Section 2562. Plan of Hall; Special Rooms to be Provided.—(a) The memorial hall shall be in honor of the soldiers, sailors and marines from the county who served in the Army and Navy of the United States in any war in which the United States has been or may hereafter be engaged. Such memorial halls shall each contain one large assembly room or auditorium for public meetings of the soldiers, sailors and marines of such county, which may be used also for other public meetings and patriotic gatherings by the consent of the board of control herein provided for.

(b) Such memorial hall shall also contain rooms for meetings of posts of the Grand Army of the Republic, encampments of the Union \*Veterans Legion, commanderies of the Loyal Legion, camps of the Sons of Veterans, Women's Relief Corps, Ladies of the Grand Army of the Republic, chapters of the Daughters of the Revolution, organizations of the Spanish-American War and Philippine insurrection, the American Legion, Veterans of Foreign Wars, and organizations of veterans of all other wars in which the United States has or may be engaged, and also rooms for such committees of public defense and welfare as may be created by the State, or as may be approved by the board of control hereinafter provided for.

(c) Such memorial halls shall also provide room for the display and preservation of relics and trophies of all wars in which the United States has been or may be engaged, photographs, paintings and portraits, busts and statues of the soldiers, sailors and marines of the county, and mural tablets upon which shall be inscribed the names of such soldiers, sailors and marines. Such memorial halls shall also contain waiting and rest rooms with lavatories attached.

Section 2563. Historical Society Room to be Made Fireproof.—The room for the county historical society shall be made as nearly fireproof as possible, and be provided with the proper files and \*\*furnishings for preservation and storing of all historical data of the said county with reference to any and all subjects.

Section 2564. Board of Managers.—When heretofore there has been erected in the county a hall as a memorial to the soldiers of any war or wars in which the United States of America was engaged and such hall has been and is maintained by said county under authority of

\* "Veteran" in original.

\*\* "furnishing" in original.

existing laws, such hall shall hereafter be under the control and management of a board of managers. The personnel of such board, the method of selection of the members thereof, and the extent of its authority shall be as hereinafter provided.

Section 2565. Personnel.—The board of managers shall consist of:

(a) Ex-officio members (five): the president judge of the court of common pleas of such county; the judge of said court next oldest in commission; the county commissioners of the county.

(b) Elective members (twelve): the present elective members representing the Veterans of the Civil War shall be and continue as members of such board until removed by death, resignation, or otherwise. The remaining members of the elective twelve shall be filled by the following organizations out of their membership: (three) by the county organization of the United Spanish War Veterans; (three) by the county organization of the American Legion; (three) by the county organization of the Veterans of Foreign Wars; within thirty days from the date when this act becomes effective; and they shall certify such election to the secretary of the existing board, whereupon the persons so elected shall be members of the board.

Section 2566. Vacancies.—Vacancies occurring among the elective members of the board shall be filled by the organization which chose the members whose place it is desired to fill: Provided, however, That whenever it may appear that it is impossible to fill any vacancy in the board caused by the death or resignation of a member thereof who represented the Veterans of the Civil War because no organization survives to choose such members or no person survives who can qualify for such membership, vacancies so created and existing shall, upon notice from the secretary, be filled by the county organizations of the United Spanish War Veterans and the American Legion and the Veterans of Foreign Wars. That is to say, the first vacancy so caused shall be filled by the county organization of the United Spanish War Veterans, the second by the county organization of the American Legion, and the third by the county organization of the Veterans of Foreign Wars, and so on in rotation. That is to say, that when no member representing the Veterans of the Civil War shall remain on said board, the elective personnel of the board shall be as follows: Elective members (twelve): United Spanish War Veterans (four); American Legion (four); Veterans of Foreign Wars (four).

Section 2567. Organization; Powers and Duties of Board.—The organization of the board and its powers and duties and the powers and the duties of the county

commissioners and the various courts of the county with respect to such memorial hall and the provisions for the maintenance and repair of such hall shall be and continue as provided under existing law.

Section 2568. Purpose of Hall.—Said memorial hall shall be in memory of the soldiers, sailors and marines from such county who served in the Civil War. It shall also contain one large assembly hall or auditorium for public meetings of the soldiers, sailors and marines of such county, but which may be used for civic purposes or other public meetings. It shall also contain rooms for meetings of the posts of the Grand Army of the Republic, encampments of the Union Veterans Legion, commanderies of the Loyal Legion, posts of United Spanish War Veterans, posts of the American Legion, posts of the Veterans of Foreign Wars, and kindred patriotic organizations. It shall also contain rooms and places for the proper display and preservation of relics and trophies of all such wars, insurrections and expeditions, flags, histories, rosters and records of all such patriotic organizations, regimental and company histories, photographs, paintings and portraits, busts and statues of soldiers, sailors and marines of such county, and mural tablets upon which may be inscribed the names of the soldiers, sailors and marines of such county who served in any such wars, insurrections and expeditions.

Section 2569. Flagstaff to be Erected; Display of Flag.—A suitable flagstaff shall be erected upon said memorial hall from which shall be displayed the flag of the United States from sunrise to sunset on each and every day of the year.

Section 2570. Purchase or Condemnation of Additional Land; Equipment, Furnishing and Decorating.—In any county in which there has been or may hereafter be erected a memorial hall in honor of the soldiers, sailors or marines from such county who served in any war in which the United States has been or may be hereafter engaged, upon petition of at least fifty (50) citizens to the court of quarter sessions setting forth that it is necessary or desirable to acquire additional land adjoining that upon which said memorial hall is erected to enhance and preserve the beauty and character of said memorial hall and the object had in its erection, or that it is necessary or desirable to equip, furnish and decorate said memorial hall, or both, the court shall lay said petition before the grand jury then or next sitting for their approval. If said petition shall be approved by said grand jury, it shall be certified back to the court. If no exceptions thereto are filed within ten (10) days from the date upon which said petition was certified back to the court, or if exceptions are filed and are dismissed,

the court shall confirm said petition absolutely, and thereupon the court may make an order authorizing the board of commissioners to acquire, by purchase or condemnation, such additional land, or to equip, furnish and decorate said memorial hall, or both. The cost to said county of acquiring such additional land shall not exceed a sum equal to one-fourth ( $1/4$ ) of the total cost of said memorial hall and the land upon which said memorial hall has been erected, and the cost to said county of equipping, furnishing and decorating said memorial hall shall not exceed a sum equal to one-twelfth ( $1/12$ ) of the total cost of said memorial hall and the land upon which said memorial hall has been erected.

Section 2571. Tax Levy; Increase of Indebtedness.—The board of commissioners may provide the funds with which to pay for the ground purchased or condemned and the erection thereon of a memorial hall, or the acquiring of additional land, or for the equipping, furnishing and decorating of said memorial hall, by the levying and collecting of a tax upon the taxable persons and property within said county, and by increasing the indebtedness of said county according to law, and by issuing and selling bonds. Such bonds shall be payable in not more than ten (10) years from their date, and shall be in such form, upon such terms and in such denominations as the said commissioners may deem best.

Section 2572. Preservation, Maintenance, Repair and Completion of Public Monuments.—The board of commissioners may preserve, maintain and repair any public monument in the county other than in cemeteries, including the enclosed public ground surrounding the monument, and appropriate moneys for such purposes. In any case where any public monument referred to in this section has been partially completed either in construction or payment, the board of commissioners may appropriate money for the purpose of such completion.

(i) Public \*Auditoriums, Public Libraries, Public Memorial Buildings and Monuments

Section 2577. Acquiring of Property.—(a) Counties shall have power to take by gift, purchase or acquire through condemnation proceedings, property for the purpose of erecting thereon public auditoriums, public libraries, public memorial buildings and monuments.

All proceedings for the condemnation of any property under the provisions of this section shall be in the manner and subject to the restrictions and procedure provided by law.

(b) Counties may appropriate money from the public funds or by issuance of bonds in accordance with the Municipal Borrowing Law for the erection on said prop-

\* "Auditorium" in original.

erty taken, purchased or acquired through condemnation proceedings, public auditoriums, public libraries, public memorial buildings and monuments. They may appropriate moneys for the operation and maintenance of such public auditoriums, public libraries, memorials, buildings and monuments.

Section 2578. Rental of Auditoriums.—Counties, in case of public auditoriums, may charge a rental for the use of said auditoriums. 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 county funds for the general uses and purposes of said county.

Section 2579. Consent of City or Borough.—No county shall acquire any property for or erect any such public auditorium, library, memorial building or monument within the limits of any city or borough without the consent of the corporate authorities of such city or borough.

#### (j) Orphans' and Childrens' Homes

Section 2583. Donations to Orphans' or Childrens' Homes.—The board of commissioners may receive from time to time donations, gifts, legacies, endowments, devises and conveyance or conveyances of property, real or personal, that may be given or granted for the use and purpose of providing a home within the county for the keeping and care of indigent orphans and children dependent upon the public of such county for support.

Section 2584. Management and Control of Orphans' Home.—Any such orphans' home shall be under the management and control of the board of commissioners of the county, and they are hereby authorized to appoint a superintendent and such assistants as may be necessary to properly conduct the affairs of such home.

Section 2585. Admission to Home.—Indigent orphans and children shall be committed to any such home on order of the board of commissioners.

Section 2586. Maintenance of Children's Home.—When any property has been given or granted to any such county for a children's home and a home is duly established, the county may thereafter appropriate from the county funds moneys for the support and maintenance of such orphans and children and for the \*payment of the salary of the superintendent and his assistants.

#### (k) Morgues

Section 2590. Authority to Provide; Approval.—The county commissioners of each county may, upon presentation of two successive grand juries of the county, buy or lease land and construct and maintain thereon, at the

\* "payemnt" in original.

expense of the county, a morgue for the reception and care of the bodies of all unclaimed deceased persons upon whom it may be necessary to hold a coroner's inquest and such other bodies as the coroner of the county may, by written order, direct to be received therein. The location of such morgue shall be determined by the county commissioners, subject to the approval of a judge of the court of common pleas and the coroner of the county.

#### (1) Warehouses

**Section 2595. Acquisition of Property for Warehouse Purposes.**—(a) It shall be lawful for and the right and power is hereby conferred upon the county to enter upon, take, use and appropriate by the right of eminent domain, and to acquire by purchase, lease, gift, devise or otherwise, private property for the purpose of erecting thereon a suitable building or buildings for warehouses for the housing of machinery, tools, equipment, vehicles and the storage of materials for the maintenance of roads, highways, bridges and tunnels, whenever the county commissioners thereupon shall, by resolution, determine thereon.

(b) The compensation and damages, when not agreed upon, shall be ascertained, determined, awarded and paid in a manner provided in this act.

(c) In every case of the taking of private property by eminent domain thereunder, the county shall acquire the entire title, either in fee or otherwise, held by the owner or owners of said property, or of any interest therein.

(d) For the purpose of acquiring such property and the erection thereon of the buildings aforesaid, the county commissioners may borrow money and issue bonds therefor in accordance with present or future laws relating to the issuance of bonds for roads, highways, tunnels and bridges.

### Article XXVI

#### Eminent Domain and Injury to Property

**Section 2601. Eminent Domain; County May Enter Upon Land, Et Cetera.**—In all cases where the power of eminent domain is conferred upon the county by law, the county may enter upon, appropriate, take, injure or destroy private lands, property or material.

**Section 2602. Certain Property Not to be Taken by Eminent Domain.**—The power conferred by this article shall not be exercised to enter upon, appropriate, take, injure or destroy any church property, graveyard or cemetery.

**Section 2603. Right to Entry to Make Preliminary Surveys.**—For the purpose of making all necessary preliminary surveys in order to prepare plans and estimates,

the board of commissioners and the persons by them employed for such purposes may enter upon private or public property and designate, by proper marks upon the ground, the line of any improvement proposed to be made and constructed under and for the purposes herein authorized.

Section 2604. Right of Damages.—The right to damages against counties is hereby given to all owners or tenants of lands, property or material appropriated, injured or destroyed by the county in cases where the right of eminent domain has been exercised, and to all owners or tenants of lands, property or material abutting on or through which pass roads or highways injured by the laying out, opening, widening, vacating, extending or grading of such roads or highways or the changing of the grades or lines thereof, the construction and the vacation of bridges, piers and abutments and approaches therefor, and the construction of sewers over, upon or through such lands or property.

Section 2605. Agreement of Damages.—The county commissioners may agree with the owner as to the amount of damages occasioned to any person for property taken, injured or destroyed. Such damages shall be payable by the county out of the general county funds or other funds provided for that purpose.

Section 2606. County to Furnish Bond When Immediate Possession Is Desired; Notice.—(a) Whenever the board of commissioners or the board of commissioners in conjunction and acting with the corporate authorities of any city, borough, town or township have selected any land, property or material to be appropriated, injured or destroyed by the right of eminent domain and desire immediate possession thereof, and are unable to agree with the owner or owners upon the amount of damages due them for such appropriation, injury or destruction, or by reason of the absence or legal incapacity of such owner or owners no such agreement can be made, they shall tender a bond to the said owner or owners, or to the attorney or agent of any absent owner, or to the guardian or committee of any one under legal incapacity, in sufficient sum to secure him or them for damages. Upon acceptance of said bond by the owner or owners of said land, property or material, the county shall have the right to immediate possession thereof.

(b) In case the acceptance of said bond has been refused by the owner or owners, the board of commissioners, after written notice thereof has first been given to said owner or owners, his or their agent, attorney, guardian or committee, shall file the same in the court of common pleas or with any judge thereof, and upon approval thereof by said court or judge, the county shall have the right to immediate possession of said land, property and material.

Section 2607. Writ of Habere Facias Possessionem to Issue.—If the owner, lessee or occupier shall refuse to remove his personal property therefrom or give up possession thereof, the petitioner in the proceedings may serve written notice upon such owner, lessee or his agent or the occupier to remove his personal property therefrom and give up possession of said lands, property or materials within thirty days from the date of the service of said notice.

If the owner, lessee or occupier of said lands, property or material shall refuse or neglect to remove his personal property therefrom and give possession thereof, upon proof of the service of such notice being filed in the office of the prothonotary for the county in which said lands, buildings or other property is located, a writ of habere facias possessionem shall forthwith issue, directing the sheriff to give to the party entitled thereto possession, as is provided for by existing laws.

Section 2608. Appointment of Viewers.—(a) In case the board of commissioners or a majority of them and the parties interested in the land, property or material appropriated, injured or destroyed by the county fail to agree upon the compensation to be made for the land, property or material so taken, injured or destroyed, upon petition of such commissioners or a majority of them or any person or parties interested and whose land, property or material is affected thereby to the court of common pleas of said county, the said court 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 said viewers shall meet and view the land, property or material to be so appropriated, injured or destroyed.

(b) The said viewers shall give at least ten days' notice, by publication in one newspaper of general circulation in the county once and in accord with the provisions of section one hundred and ten of this act, of the time and place of their first meeting, and shall also give notice thereof by handbills posted in conspicuous places in the vicinity of the said proposed public improvement.

(c) All the viewers shall act unless prevented by sickness or other unavoidable cause, but a majority of the viewers may hear, determine, pass upon and report all matters relating to the view for which they were appointed.

Section 2609. Time of Appointment of Viewers; Cost.—(a) The viewers provided for in the preceding section may be appointed either before or at any time after the entry upon, taking, appropriation or injuring of said land, property or material.

(b) The cost of said viewers and all court costs incurred, including all advertising and notices in connection therewith, shall be paid by the county, except that when the right of eminent domain has been exercised by the county acting with the corporate authorities of any city, borough or township, then all costs shall be borne equally by the county and city, borough or township.

Section 2610. Petition for Appointment of Viewers to Specify Liens on Property.—In all proceedings hereafter instituted for the condemnation and appropriation of land and property by eminent domain, the petition for the appointment of viewers 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 2611. Testimony and Evidence Concerning Liens.—Testimony shall be taken in said proceedings to ascertain the amounts of said liens and the dates of the entry of the same, and the amounts of said liens and the dates of entry thereof shall be found as facts by the viewers in said proceedings. Certified lists of liens from the 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 oral or documentary evidence, shall be conclusive upon the parties thereto.

Section 2612. Procedure; Rights and Liabilities Where Liens Exist.—When it appears that liens exist which are liens upon property sought to be condemned and appropriated, a report of the facts found shall be made to the court. Such report shall be subject to exceptions in manner to be regulated by the Supreme Court by general rule. When the court has finally determined the findings in relation to the laws, the 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, then to the owners of the property appropriated as aforesaid. The parties interested shall have the right of appeal from said order of distribution to the Superior and Supreme Courts. Payment in accordance with the order of distribution, evidenced by a receipt of record in the proceedings, shall absolutely discharge the party making the payment from all liens by any person, copartnership, association or corporation as against said property. In such receipt and on the record thereof, any claimant may reserve the right to proceed against any other property or assets of the owner of the property condemned for any balance due upon his lien.

Section 2613. Proceedings by and Before Viewers.—The said viewers, having been duly sworn or affirmed

faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them and in relation to which they are authorized to inquire and having viewed the premises and examined the land, property or material to be appropriated, injured or destroyed, shall hear all parties interested and their witnesses, 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 owner or owners of said lands or materials in consequence of the proposed improvement, shall estimate, determine and assess the damages for the land, property or material taken, injured or destroyed, and to whom the same is payable, and the benefits, if any, in connection therewith. Having so estimated, determined and assessed the damages and benefits, they shall prepare a schedule thereof, and give notice to all parties to whom damages are allowed or against whom benefits are assessed of a time, not less than ten days thereafter, and of a place, where said viewers shall meet and exhibit said schedule and hear all exceptions thereto and evidence.

Section 2614. Notice of Meeting.—Notice of the time and place of said meeting shall be given in the manner provided by law for the service of summons in a personal action upon all parties allowed damages and against whom benefits have been assessed, as shown by said schedule, if the said parties can be found in the county, or upon an adult person, if any, residing upon the property affected in case the owner or reputed owner cannot be found, and to all others by publication in the newspaper or newspapers in which the first notices of said view were published. When no service is made upon the owner, reputed owner or upon an adult person residing upon the property affected, said notice, where publication thereof has also been made, shall be deemed to have been properly served if tacked or conspicuously posted on the premises. The court may provide by whom the notice provided by this act shall be posted, given and served, and fix the compensation for said service.

Section 2615. Plans of Properties Condemned to Be Furnished to Viewers.—(a) In all proceedings to assess damages for the taking, injury or destruction of private property for public use, the county taking, injuring or destroying property for said purpose shall furnish the board of viewers with a correct plan of all properties affected, showing all buildings or other structures thereon, their width, length, elevation and cubical contents, names of all owners, tenants or occupiers thereof, the topography of the land and the grades and widths of all highways running through or abutting on said properties, and all other data necessary for a proper

determination of the amount of damages caused by the taking, injury or destruction of said private property.

(b) Said plans shall be prepared and ready for the use of the viewers at their first meeting, and copies thereof shall be furnished to all owners, tenants and occupiers of the property and all other parties affected thereby without charge.

Section 2616. Report to Court.—After making whatever changes are deemed necessary, the said viewers shall make report to the court showing the damages allowed and benefits assessed in each case, and file therewith a plan showing the improvement and the land, properties and materials taken, injured or destroyed. When said report is filed, notice thereof shall be given by publication once in the newspaper or newspapers in which first notices of said view were published. Said notice shall state the date of filing of the report and shall contain a schedule of the damages and benefits shown therein, and shall further state that, unless exceptions thereto are filed within thirty days from the date of filing, the said report will be confirmed absolutely.

Section 2617. Certain Testimony Authorized.—In all proceedings arising from the exercise of the right of eminent domain, it shall be competent for all witnesses called, when duly qualified :

(1) To state in detail and costs all the elements of the 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.

(2) To state in detail and costs all of the elements of benefit or damage which they have taken into consideration in arriving at their opinion.

(3) 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 disadvantages or damage in order to arrive at the market value after such exercise of the right of eminent domain and as affected thereby.

(4) In all proceedings to assess damages or benefits for the opening of any road or highway, to take into consideration as one of the elements of advantage or disadvantage the cost of highway improvements.

Section 2618. Value of Property.—In all claims for damages against a county 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 the value of the property affected as assessed for the purpose of taxation.

Section 2619. Unlawful Assessments.—In all cases of appropriation of land for public use, other than for roads or highways, it shall be unlawful to assess any portion of the damage done to or value of the land so appropriated against the other property adjoining or in the vicinity of the land so appropriated.

Section 2620. Vacation of Road When No Property Is Taken.—Whenever viewers are appointed to vacate any road or highway and the vacation of the same takes no land from the owner abutting thereon, if, in the opinion of the viewers, such vacation damages the property of the abutting owner, they may award damages to such owner as though land has been actually taken.

Section 2621. Procedure When Building Is on Line of Proposed Road.—Whenever in locating, relocating, opening, widening, straightening or extending any road or highway or parts thereof the same shall be found to pass through, take or injure buildings, barns or other valuable improvements thereon, the said viewers or a majority of them shall have the right to recommend that such buildings and improvements, situate in part or in whole on the road or highway so to be improved, opened, widened, straightened or extended, shall be permitted to remain thereon for such time as shall be deemed wise and proper, and if the court shall approve the finding and report of said viewers or a majority of them, the owner or owners of such buildings or improvements may continue to use and enjoy the same during the time so fixed and determined. In case of the destruction, vacation or abandonment of any such building within the time they are so authorized to remain, such owners or owner shall not have the right to re-erect and reconstruct or retake such buildings or improvements within the line of such road or highway.

Section 2622. Time Limit for Report of Viewers.—Viewers appointed to assess the damages and benefits due to the appropriation, injury or destruction of land, property and materials shall make their reports within a time which the court shall fix when so appointing them. If the viewers so appointed shall, for any reason appearing sufficient to the court, be unable to file their report within the period so fixed, the court may, either before or after the expiration of the time fixed, extend the time for the filing of such report.

Section 2623. Exceptions to Report.—Upon the report of said viewers or any two of them being filed in said court, any party interested may, within thirty days thereafter, file exceptions to the same, and the court shall have power to confirm said report, or to modify, change or otherwise correct the same, or refer the same back to the same or new viewers with like power as to their re-

port. When said report is first filed in court, the prothonotary thereof shall mark the same "confirmed nisi," and in case no exceptions are filed thereto within said thirty days, he shall enter a decree (as of course) that said report is confirmed absolutely. Within thirty days after the confirmation, modification, changing or correcting of said report, any interested party may appeal from said decree to the Superior Court or to the Supreme Court, as the case may be.

Section 2624. Demand for Jury Trial.—Within thirty days after said report is filed in court as aforesaid, such county and any party whose property is taken, injured or destroyed may appeal to the court of common pleas and demand a trial by jury according to the course of the common law. The court of common pleas shall, within thirty days, order what notices shall be given in connection with any part of said proceedings and make all such orders as it may deem requisite, and may, by rule or otherwise, prescribe the form of the pleadings. After verdict and final judgment, either party may have an appeal to the Superior Court or Supreme Court as in other cases.

Section 2625. Payment of Damages and Costs; Interest on Awards.—All damages agreed upon or awarded and all costs and expenses incurred shall be paid by the county, except in cases where an appeal is taken by any party in interest from the award of the viewers and the appellant does not recover any greater amount than the viewers award, in which case the appellant shall pay all costs of such appeal.

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

Section 2626. Collection of Awards.—Upon the final confirmation of the report of the viewers, the party or parties to whom an award has been made shall have the right to take such further appropriate legal proceedings as may be necessary and proper to enforce payment of said confirmed award, either in nature of a writ of mandamus, execution or otherwise.

Section 2627. Title to Vest Upon Payment of Award.—Upon payment of the compensation for land or property in accordance with the order of distribution, all claims for compensation shall be deemed paid and satisfied.

Section 2628. Money to Be Paid Into Court in Case of Adverse Claims.—(a) If any person or persons shall claim adversely to each other any estate or interest in the land, property or materials selected by the board of

commissioners to be appropriated, injured or destroyed for the purposes mentioned in this act, and the viewers shall not be able to determine who are the owner or owners of said land, property or materials, or the value of their estates and interests therein, they shall so report, valuing the land, property or materials as a whole, and upon the confirmation by the court of the report of said viewers, if no appeal shall be taken therefrom, the commissioners of the county shall pay into the court the whole of the said valuation money; thereupon, the title of the land, property or material and the estates and interests of all the owners thereof shall become vested in fee in the county acquiring and taking said land, property or materials.

(b) The court of common pleas shall, by rule, process or motion, require all said claimants to appear therein and may, by an issue framed between them to be tried by a jury or by a reference to a master or by such orders and decisions as shall appear to be just under all the circumstances of the case, determine the estates and interest of said claimants in said valuation money. Upon the final determination of such proceeding, the court shall direct said valuation money to be paid to the person or persons ascertained to be entitled thereto.

Section 2629. Appeals by Adverse Claimants.—(a) In case any of said claimants shall appeal from the award of said viewers, the county commissioners, upon filing in the court and having approved thereby a bond in double amount of said award to the said owners and claimants for the benefit of the persons owning said land, property or materials, with at least two sufficient sureties conditioned for the payment by the county of such an amount as the owner or owners shall be entitled to receive for said ground when the same shall have been finally ascertained by due course of law, may lawfully enter upon and take possession of said land, property or materials.

(b) The said court shall thereupon proceed to determine the estates and interest of said claimants in said land, property or material, as is herebefore provided when the valuation money is paid into court. Said proceeding shall be finally determined before the issue framed upon the said appeal shall be tried, and if it be determined that the party appellant has no estate or interest in said land, property or materials, his appeal shall be disallowed.

Section 2630. Payment Into Court When Award is Refused or When Parties Cannot Be Found.—Any amount of money awarded, as herein provided, if refused by the person or persons entitled thereto, or if the person or persons entitled thereto cannot be found, shall be paid into court, and thereafter all such persons shall look to

said fund for all damages accruing by reason of the appropriation, injury or destruction of such land, property or material.

Section 2631. Notice to Vacate; Ejectment.—In case any land or property selected by the board of commissioners or by the board of commissioners in conjunction and acting with the corporate authorities of any city, borough or township to be appropriated, injured or destroyed, and said land or property has improvements thereon in the actual occupancy of any person or persons, and such person or persons has had his, her or their damages assessed and paid, thirty days' notice to vacate the same shall be given to the party or parties so in actual possession. In case of refusal or neglect on the part of any one to obey said notice, the board of commissioners may, at the expiration of said thirty days, enter upon and eject or cause to be ejected any of the parties so refusing or neglecting to vacate, and use force enough by themselves, agents or employes to accomplish the same.

Section 2632. Appropriations of Right of Way or Easement.—In any action brought to ascertain or recover damages caused to any owner of lands by reason of the appropriation of a right of way or easement in such lands by any county, where such owner of lands and such county cannot agree upon the amount of damages payable to such owner, the parties may by agreement waive the right to have such damages assessed by viewers. Such owner may thereupon file his statement and claim in the court of common pleas and rule the defendant to plead thereto within fifteen days from notice of such rule duly served upon said county, and the said suit shall be proceeded with the same as if an award of viewers had been filed and an appeal had been taken therefrom.

Either party to such action shall have the right during the trial to demand and have the jury which may be selected to try said cause visit and view the premises over or through which the right of way or easement extends before rendering a verdict in such case.

Section 2633. Discontinuance of Proceedings by County.—In case the county shall discontinue any proceedings taken providing for the appropriation, injury or destruction of any land, property or materials prior to the entry upon, taking or appropriation thereof and before judgment therein, the said county shall not thereafter be liable to pay any damages which have been or might have been allowed, but all costs upon any such proceedings had thereon shall be paid by the county, together with any actual damages, loss or injury sustained by reason of such proceeding, and the amount of the same may be determined and fixed by the court in which such proceeding was pending.

## LAWS OF PENNSYLVANIA,

## Articles XXVII and XXVIII

## Bridges, Viaducts and Culverts

## (a) General Authority and Procedure

Section 2701. Contracts.—It is unlawful for the county commissioners to make any contract over five hundred dollars (\$500) to build, rebuild or repair any county bridge without first advertising for at least three weeks, or, in case of emergency, one week, for sealed bids or proposals to build, rebuild or repair such bridge, in at least three newspapers published in the county where said proposals or bids are asked for. Such advertisement shall contain the description of the repairs or plans of the kind of bridge required, the time when the proposals or bids shall be closed, and when said bids or proposals shall be opened. When the contract is for the building of a bridge, the plans and specifications therefor or a copy thereof shall be kept in the office of the county commissioners, open to the inspection of all intending bidders, during such advertising and until the time specified therein for the reception of bids. In the case of a bridge to be erected over a river or stream upon the line between two adjoining counties, the advertising shall be done in each of said counties, and a copy of the plans and specifications shall be kept in the commissioners' office of each county.

Section 2702. Penalty.—If any county commissioner violates any of the provisions of the preceding section of this act, or if any county commissioner or any person shall do or permit anything which prevents fair competition in the making or submission of bids for such building, rebuilding or repair, they shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000) or be imprisoned not exceeding two (2) years, or both.

Section 2703. Filing of Security With Proposals; Opening of Bids.—The proposals or bids must be accompanied with such security as the county commissioners may require, which must be filed with the chief clerk or some one in charge of the commissioners' office at least one hour before the time fixed for the opening of the bids or proposals. The time of filing bids and the person's name with whom filed must be marked on the outside of said bids.

All bids or proposals shall be opened in public and in the presence of not less than two of the county commissioners and the chief clerk and a record made of each and every bid.

Section 2704. Awarding of Contract; Readvertising.—The commissioners shall, as soon as possible after the time fixed for the opening of said bids, award the contract for the building, rebuilding or repair of said bridge

to the lowest responsible bidder, upon the condition that said bidder must, within ten days after notice of award of said contract, sign and execute a contract for the faithful performance of the proposal and furnish a bond in a sum not exceeding the amount of the contract, which contract and bond shall first be approved by the court of quarter sessions. If the lowest bidder neglects to comply with the conditions of his bid within the time required, the commissioners shall award the same to the next lowest bidder. In case all bids are too high or unreasonable, in the opinion of the commissioners, they may reject any and all bids and advertise for new bids.

**Section 2705. Compensation for Additional Work.**—In all cases where bridges shall have been or may be erected for the county and deviations from or alterations in the plan contracted for have been made by the direction of the county commissioners, where the county commissioners and builders cannot agree upon the compensation to be made therefor, it shall be lawful for such builder to recover any sum to which he may be justly entitled for such deviations and alterations beyond the contract price in an action for work, labor and service done and performed and material found and provided.

**Section 2706. Inspection.**—Every bridge erected by the commissioners of the county or under contract with them shall, upon completion, be inspected by three fit persons, one of whom shall be a surveyor to be appointed by the court of quarter sessions, who shall make report of their findings to the court. Such inspectors shall, before they proceed, make oath or affirmation before any person authorized to administer oaths, to perform their duty impartially and according to the best of their judgment. The expense of the inspection shall be paid by the county.

**Section 2707. Payment on Contract.**—If any such bridge shall be approved by the court and the same shall have been erected under contract with the commissioners, the money due under such contract shall be paid agreeably thereto.

**Section 2708. Deduction of Part of Contract Price.**—If the persons appointed to inspect any bridge erected by contract shall not approve of the same, they shall report to the court what sum in their judgment ought to be deducted from the sum stipulated in such contract, and thereupon the court shall grant a rule upon the builder or contractor to show cause against said report, at a time and place in such rule to be named.

**Section 2709. Action on Contract or Procedure on Rule.**—After the service and return of such rule, it shall be lawful for the builder or contractor to file a declaration or statement in the court of common pleas upon the contract made by him with the commissioners, and

thereupon proceed to trial in due course in like manner as if an action had been commenced by him upon such contract against the county, or, at his election, he may show cause against the said report and thereupon the court of quarter sessions shall determine the matter as justice and equity shall require.

Section 2710. *Bridge Erected by Commissioners.*—When any bridge shall have been erected by the commissioners of the county or under their superintendence, if the same shall not be approved by the inspectors, they shall report in what respect such bridge is deficient and whether or not the same has occurred through the default, neglect or official misconduct of the commissioners or any of them, and what, in their judgment, is the value of such bridge. Thereupon, the court shall in like manner grant a rule upon the commissioners to show cause against such report.

Section 2711. *Procedure on Rule.*—After the service and return of such rule, it shall be lawful for the commissioners to have an issue directed upon the said report to the court of common pleas to be tried by a jury, or, at their election, they may show cause against the same and thereupon the court of quarter sessions shall determine the matter as justice and equity shall require.

Section 2712. *Building or Rebuilding in Emergencies.*—When a county bridge wholly within the county or on the boundary line between any two counties has been or shall hereafter be destroyed or partially destroyed, or rendered impassable, or becomes insufficient or inadequate to accommodate public travel, or in any other case of emergency it becomes necessary to construct or reconstruct any such bridge, the county commissioners of the county or of any two counties, in case of a joint county bridge, may, upon the approval of the court or courts of quarter sessions of such county or counties, erect and construct a new bridge, or reconstruct any partially destroyed, insufficient or inadequate bridge, to take the place of such wholly or partially destroyed or insufficient or inadequate bridge.

Section 2713. *Bridges on Boundary Between Two Counties.*—(a) Whenever any bridge contemplated by any of the provisions of this article is on the boundary line between two counties or within one-fourth of a mile therefrom and necessary for the accommodation of the inhabitants of both counties, the commissioners of such counties shall act jointly in the exercise of all powers conferred upon them and in the performance of all duties imposed upon them. Whenever a petition of residents or taxpayers is required, such petition shall be made by the required number of petitioners in each county to the court of quarter sessions or the court of common pleas, as the case may be, of their county. Whenever any other petitions are required, such petitions shall be made to

each of such courts. Each of the courts shall act on such petitions and shall communicate its approval or disapproval to the other court.

(b) Whenever the appointment of viewers or inspectors is required, the court of each county shall appoint a full number of such viewers or inspectors and order a view in the manner and with like powers, duties and procedure provided for in the case of public roads. The total number thereof shall act together in the view or inspection and shall make their joint report and recommendations to each court. Exceptions to the report of viewers may be filed in and appeals therefrom made to the courts of either county, in which case the courts of said two counties sitting together shall hear and determine the same. Whenever publication of notice is required, such publications shall be made in each county. The approval of both boards of commissioners and of both courts shall be necessary in order to authorize any action requiring such approval.

Section 2714. Payment of Cost; Tolls; Rentals.—(a) All expenses in connection with any matters affecting any such bridge shall be borne by the two counties jointly in equal proportions or in any other proportions, as the commissioners of the several counties may agree upon.

(b) Whenever it is necessary for any counties, in the construction of any joint county bridge or in joint acquisition of any toll bridge, to issue bonds in payment of such construction, erection or acquisition, including the approaches thereto, the damages sustained by the owner or owners of lands taken in the construction thereof and including reasonable fees for necessary legal services required in such construction, erection and acquisition, the commissioners of said counties may, with the consent of the State Department of Highways, if the cost of such bridge was in excess of four hundred thousand dollars (\$400,000), assess, supervise and collect such tolls for the use of said bridge for all traffic as may be necessary, to pay the interest on said bonds and to create a sinking fund for the payment and redemption of the same within thirty years from the date of the issue thereof, and to pay also the costs and expenses of operating and maintaining such bridge between the time of construction thereof and the date of the redemption of the last of said bonds to be redeemed by such tolls.

(c) The tolls so collected shall be distributed between such counties in proportion to the amount paid in by each county in the original construction or acquisition, and in no case shall any tolls be collected after the redemption of the original bonds issued. All moneys received from rentals for special use shall be divided between them in the same proportion. Such bridge shall be a joint county bridge.

Section 2715. Management, Maintenance and Policing of Joint County Toll Bridges; Turning over to the Department of Highways.—(a) Such joint county bridge shall be managed, controlled, maintained, repaired, operated and lighted by the commissioners of the said counties, acting as a joint county bridge commission, who are hereby authorized to act jointly in the employment of such workmen, collectors of tolls and other employes and fix their wages, salaries and compensation, and to incur such other expenses in the construction and operation of such bridge, including the compensation of such attorneys as in their judgment shall be requisite and necessary. All decisions of such commission shall require a majority vote of all the members thereof.

(b) The commissioners of said counties, acting jointly, shall have power to adopt such rules and regulations as they deem expedient for the proper government and management of said bridge and for the preservation of good order, safe traffic and proper conduct thereon. Said commissioners are further authorized and empowered to make arrests for evasion or attempts to evade the payment of tolls which may be fixed or may have been fixed for passage over said bridge.

(c) For any violations thereof, the offender or offenders shall be subject to a fine or penalty of not less than ten dollars (\$10) or more than twenty-five dollars (\$25), together with costs, to be adjudged by a justice of the peace or alderman of either of said counties, and on default of payment of such fine or penalty, then to imprisonment of not less than ten (10) days or more than thirty (30) days in the county prison of either of said counties.

(d) Said powers and duties of said commissioners, acting as a joint commission, shall continue until the redemption of the last of said bonds to be redeemed by such tolls, whereupon said bridge shall be turned over as a free bridge to the Commonwealth, if such bridge crosses a river and is located on a State highway route or connects two State highway routes. Thereafter, such bridge shall be maintained by the Highway Department at the expense of the Commonwealth.

Section 2716. Widening, Straightening, Altering or Changing Course of Unnavigable Streams for Protection of County Bridges and Highways.—Whenever, in the erection, construction, repair or maintenance of any county bridge or highway, it becomes necessary for the safety of said bridge or highway or advisable from an economic standpoint to widen, straighten, alter, protect or change the course of any unnavigable stream, it shall be lawful for the county to enter upon abutting or adjacent land and to widen, straighten, alter, protect or

change the course of such unnavigable stream for such purposes, and in connection with such entry, to take, injure and destroy any necessary land or property, in accordance with Article XXVI.

Section 2717. Dykes, Banks, Causeways and Sluiceways for Protection of Bridges and Highways.—The board of commissioners, for the purpose of protecting any county bridge or bridges, the abutments thereof and approaches thereto and any public highway adjacent to the same from the incursions of floods or waters of any creek, rivulet or other stream, and so as to prolong the life of said structures, may erect and maintain dykes, banks, causeways and sluiceways over, on and across any creek, rivulet or other stream not navigable, and which creek, rivulet or other stream is affected by the rise and fall of the tide, floods or waters of any creek, rivulet or other stream, and secure a right of way for proper ingress and egress thereto, and in connection with such activities, to take, injure and destroy any necessary land or property, in accordance with Article XXVI. Any such change in an existing stream channel under the provisions of this or the preceding section shall first be approved by the Department of Forests and Waters.

Section 2718. Materials Taken from Adjoining Lands.—It is lawful for the contractors or board of commissioners, in building any county bridge, to enter upon the lands and inclosures near \*to the place where such bridge is to be built for the purpose of searching for and procuring the materials necessary for the building of such bridge, when such materials cannot be conveniently obtained by contract at reasonable prices. In exercising such right, they shall do no unnecessary damage to the owners of the land and shall repair any breaches of fences which they make.

Section 2719. Lighting of County Bridges.—(a) Whenever considered necessary for the safety and convenience of the traveling public, the county commissioners of the county within which a county bridge is erected, or the county commissioners of two or more counties acting together with regard to any bridge located partly in one county and partly in another county or counties, may supply and equip any county bridge within their respective counties with lights of any kind and character, as they shall deem necessary.

(b) To carry out the provisions of this act, the county commissioners, severally or jointly, are authorized to contract with any individual or with any municipal or private corporation for the purpose of supplying the necessary light.

(c) The cost of the construction, erection and maintenance of any light placed upon any such bridge shall be

\* "to" omitted in original.

paid by the county or by the two or more counties, as may be agreed upon by the county commissioners of said counties.

Section 2720. Repair of County Bridges.—The county commissioners shall repair all county bridges heretofore erected or that may be hereafter erected by the county where no other provision is made for the maintenance thereof, and shall pay the expenses of such repairs out of the county treasury.

Section 2721. Painting and Tightening of Bolts of Iron and Steel Bridges.—The county commissioners shall have the county bridges which are constructed of iron or steel painted and the bolts of the same drawn as often as may be necessary to preserve them from the effects of rust and prevent unnecessary wear occasioned by loose bolts.

Section 2722. Contracts for Work.—Whenever it may be necessary to paint any of the county bridges and tighten the bolts thereof, as required by the preceding section, where the cost of such work exceeds five hundred dollars (\$500), the county commissioners shall cause to be published, at least once a week for four successive weeks in two newspapers of the county, a list of such bridges, stating their location and specifying the kind and quantity of paint to be used and asking for sealed bids for furnishing the material and doing the work upon each separate bridge. The contract for material and work upon each bridge shall be given to the lowest responsible bidder.

Section 2723. Repair of Bridges, Viaducts and Subways When Liability for Such Repairs is in Doubt.—Whenever any bridge, viaduct or subway carrying a public highway over or under a railroad, street railway or other highway in the county of the Commonwealth is out of repair, and an application has been made to the Public Utility Commission to compel the repair thereof, from which proceedings it appears that there is a contest between two or more municipal authorities or between such authorities and one or more public service corporations as to the liability for such repair and that the cost thereof is not in dispute, the petitioner or petitioners or any other person or corporation interested may forthwith apply to the county commissioners of such county for the prompt repair thereof.

Section 2724. Application to County Commissioners; Authority to Act.—Such application shall be made by serving upon the county commissioners a certified copy of the petition and each of the answers on file before the Public Utility Commission. After such service, the county commissioners may take such steps as may be necessary to place said bridge, viaduct or subway in repair and safe for public travel.

Section 2725. Contributions Towards Work.—Should the county commissioners find it impracticable to make such repairs with county funds, they shall so notify the complainant in the proceedings instituted before the Public Utility Commission. Thereupon, any individual, corporation or association interested in having such repairs made may contribute to a fund deposited with the county treasurer for the purpose of making said repairs. When said fund shall become sufficient for said purpose, the commissioners shall take the necessary steps to place said bridge, viaduct or subway in repair and safe for public travel. Said repairs may be made partly from such contributions and partly from public funds if the commissioners find it expedient so to do.

Section 2726. Collection of Costs of Repairs; Return of Contributions.—The cost of said repair shall be kept by the commissioners in an open account until there has been a final adjudication of the proceedings before the Public Utility Commission, whereupon the amount so expended, together with five per centum of such amount to cover the cost of supervision of the work, shall be collected as awards of the Public Utility Commission are collected and shall be paid into the county treasury. Thereupon, or in case the contributions aforesaid are insufficient to cause said work to be undertaken, any contributions which may have been made as aforesaid shall be returned to the contributors.

Section 2727. Temporary Substitutes for Bridges.—Where county bridges have been or shall hereafter be destroyed or rendered impassable by fire, storm, flood or other casualty, the county commissioners may provide, at the expense of the county, ferries or other temporary ways as a substitute for such destroyed or impassable bridges, until such county bridges shall be rebuilt or rendered fit for public travel. Where a county bridge spans a stream which is the boundary between two counties of this Commonwealth and the bridge across such stream has been built and maintained at the joint expense of said adjoining counties, the establishment and maintenance of such ferry or temporary way shall be by the joint discretionary action of the boards of commissioners of said counties and the expense thereof shall be borne by said counties in equal share.

Section 2728. Bridge for Pedestrians Only.—When the county commissioners of the county have been legally authorized to erect a county bridge and when, in the exercise of their discretion, it is found that a bridge for pedestrians only will sufficiently accommodate public travel at the place in question, they are authorized to erect such bridge instead of a bridge for general traffic.

Section 2729. Rebuilding Insufficient Bridge.—Whenever it shall appear to the commissioners that any county bridge is not sufficient for any cause to accom-

modate the public travel, they may, upon the approval of the court of quarter sessions as hereinafter provided, erect and construct a new and sufficient bridge to take the place of the insufficient, destroyed or partially destroyed bridge, or may widen and straighten county bridges where deemed necessary to accommodate the public travel. Such new bridge when constructed shall be a county bridge.

Section 2730. Rebuilding Bridges Wholly or Partly Destroyed.—(a) The county commissioners shall rebuild and reconstruct all bridges heretofore built or that may hereafter be erected by the county commissioners, whether constructed under general, special or local laws, whenever any such bridge has been or shall hereafter be blown down, destroyed, partially destroyed or swept away by floods, freshets, ice, storm, fire or other casualty, at the expense of the county.

(b) For the purpose of carrying into effect the provisions of this section, the county commissioners are hereby authorized to borrow any sum of money, in accordance with the Municipal Borrowing Law.

Section 2731. Closing, Vacating, Abandoning and Removing.—Whenever it shall appear to the commissioners of the county that any county bridge has from any cause become burdensome and is no longer necessary for the accommodation of public travel, they may, upon the approval of the court of quarter sessions, close, vacate, abandon and remove said bridge.

Section 2732. Contracts With Railroad Companies for Use, Purchase, Removal, Replacing or Exchange of County Bridges.—(a) Any railroad company which has heretofore located or may hereafter locate its railroad upon any county bridge may contract and agree with the commissioners of said county for the use, purchase, removal, replacing or exchange of such bridge, or for the compensation to be paid to said county by said company for the use and occupancy of said bridge or such parts thereof as may be used and occupied by said railroad company. For such purpose, the commissioners may contract and agree with said company and may do all acts necessary and proper to effectually carry out such contract.

(b) All moneys due and all obligations incurred by said companies under said agreements and contracts may be collected and enforced in the same manner as debts of like amount are now recovered and similar obligations enforced in this Commonwealth.

Section 2733. Restrictions and Saving Clause.—No bridge erected under the provisions of this act shall obstruct any canal or railroad over which such bridge may be erected. Nothing in this article shall release railroad or other companies of the Commonwealth from the requirements of existing laws.

Section 2734. Appropriations; Tax Levy and Incurring of Indebtedness.—For the purpose of carrying into effect the provisions of this subsection, the county commissioners are hereby authorized to make appropriations, levy taxes, borrow money and incur indebtedness, in accordance with the Municipal Borrowing Law.

(b) Authorization and Construction

Section 2751. Entering on Record as County Bridge.—Whenever the erection and construction of any new bridge or of any bridge to take the place of an existing bridge over a river, creek, rivulet or canal, or over or under a railroad, and forming part of any street, road or highway in any city, borough or township, is necessary, and requires more expense than it is reasonable that such city, borough or township, or any two of them when they are adjoining, should bear, the court of quarter sessions shall, upon representation of the proper authorities of the respective city, borough, or of the supervisors of the township, or on the petition of any inhabitants of the respective city, borough or township, order a view in the manner and with like powers, duties and procedure provided for in the case of public roads. If, on the report of the viewers, it shall appear to the court and commissioners of the county that such bridge is necessary and would be too expensive for such city, borough or township, or any two of them adjoining, to bear, it may, in the discretion of the county commissioners, be entered on record as a county bridge.

Section 2752. Change in Location of Bridge and Roads.—When such bridge is to take the place of an existing bridge, the viewers may change the location of such bridge so that it may be located and erected in the most suitable place or at the least expense or in the best manner. In the case of the change of location of such bridge, they shall also report what change in the course or bed of the road to be connected therewith will be necessary, and shall also report the vacation of the old or existing bridge and the vacation of such portion of the road connecting therewith as they may deem proper. The viewers shall cause every such variation to be accurately surveyed and a plot thereof to be made and returned with their report. Upon the approval of their report, such roads shall be altered accordingly.

Section 2753. Estimate of Cost; Tax Levy; Erection.—Whenever a bridge shall be authorized and recorded as a county bridge, it shall be the duty of the commissioners to procure an estimate of the cost thereof and provide in the county levies the moneys necessary to defray the same, and proceed to have such bridge erected, by contract or otherwise, as shall seem to them expedient.

Section 2754. Entering Embankments and Causeways on Record as County Improvements.—(a) Where a river, creek or rivulet over which it may be necessary to erect a bridge crosses a public road or highway and the erecting of such bridge requires the erection and construction of an embankment or causeway leading to either end of said bridge, the erection of which embankment or causeway requires more expense than it is reasonable that one or two adjoining townships should bear, the court having jurisdiction shall, upon the representation of the township commissioners or supervisors or on the petition of any of the inhabitants of the respective townships, order a view.

(b) If, on the report of the viewers, it shall appear to the court that for the use and enjoyment of said bridge by the public it is necessary to erect and construct an embankment or causeway, the erection and construction of which would be too expensive for such township or townships to bear, it may, in the discretion of the county commissioners, be entered on record as a county improvement and constructed as county bridges are erected.

Section 2755. Assistance in Building Bridges not Entered as County Bridges.—When it is found by the report of viewers and by the court that a bridge is necessary and that the erection of such bridge will require more expense than it is reasonable that the one or more adjoining townships, boroughs or cities of the third class should bear, or in lieu of such proceedings, with the approval of the Secretary of Highways, when the cost to the county will not exceed fifteen hundred \*dollars (\$1500) and the county commissioners do not deem it advisable to enter such bridge on record as a county bridge but shall consider it proper to assist such township or townships or such city of the third class or such borough in building the same, they may either build such bridge or any portion or portions thereof or furnish such township or townships or city of the third class or borough the whole or part of the money necessary to build it, without entering such bridge on record as a county bridge.

Section 2756. Record to be Kept by County; Maintenance, Repair and Rebuilding by Township or Municipalities.—The county commissioners shall keep a record of all their proceedings in such cases, and such bridges shall be maintained, kept in repair and rebuilt, when necessary, by the respective townships, boroughs or cities of the third class, and the county shall not be liable for the costs of the maintenance, repair or rebuilding of the same or any part of such cost: Provided, That in case the report of a board of viewers

\* "dollars" omitted in original.

appointed by the court for the purpose, duly approved by the court, shall set forth that the cost of the repair or rebuilding of such bridge is greater than it is reasonable that the said township or townships, borough or city of the third class should bear. then it shall be lawful for the county commissioners of the county in which such bridge is located to furnish such township or townships, boroughs or city of the third class either the whole or part of the money necessary to repair or to rebuild such bridge or bridges, as the said board of county commissioners may deem just and proper.

Section 2757. Entering on Record as County Bridge.—Whenever the county commissioners of the county have heretofore assisted or shall hereafter assist any township or borough in the building of the whole or any portion of a bridge and it shall afterwards appear to the commissioners and to the court of quarter sessions that the care, maintenance and responsibility of said bridge is greater than it is reasonable that the said township or borough should bear, they may, with the approval of said court, enter such bridge upon record as a county bridge, and it shall thereafter be a county bridge the same as if it had originally been so entered on record.

Section 2758. Borough and Township Bridges Donated to County.—Whenever a public bridge had been built or maintained by any borough or township, or both, or by any two townships, and used by the public for travel, the county commissioners may take the same as a county bridge whenever the proper authorities having the maintenance, supervision and control of such bridge shall tender the same to said county commissioners free and without charge therefor. Any bridge so taken shall thereafter be maintained and kept in repair as a county bridge.

(c) On Action of County Commissioners

Section 2771. Bridges and Approaches Authorized.—The county commissioners, upon the approval of the court of quarter sessions, may locate, lay out, open, construct and maintain public bridges across any river or stream, whether such bridge is wholly or partly within any city, borough or township therein, together with such bridge approaches, viaduct or other approaches as the county commissioners may deem necessary or convenient for the purpose of connecting any such bridge with the existing streets or public roads in such cities, boroughs or townships, and to that end may take, enter upon, appropriate property and rights of property of all kinds, whether devoted to a public or private use, for the purposes aforesaid, and for the necessary slopes, piers, walls, abutments, fills and embankments, in the manner and subject to the restrictions and procedure

provided in Article XXVI of this act, and may enter upon or over any street, public highway or public road in such cities, boroughs or townships.

Section 2772. Plans and Surveys; Petition to Quarter Sessions.—(a) Whenever the county commissioners shall resolve to exercise any of the powers conferred by the preceding section, they shall cause to be prepared plans and surveys showing the location of the proposed bridge and its approaches and the property or rights of property affected thereby, together with any streets or public roads in any city, borough or township proposed to be used in connection therewith, and they shall present the same, together with their petition, on behalf of said county, to the court of quarter sessions, praying for authority to locate, lay out, open and construct such bridge.

(b) Such petition shall briefly describe the location and the estimated cost of such bridge, or, if the method of construction has not been fully determined, the estimated cost thereof for each alternative method of construction proposed.

Section 2773. Hearing and Decree.—(a) Upon the filing of any such application or petition, the court shall fix a time for the hearing of the same. Notice of the time, place and purpose of said hearing shall be given by an advertisement published once a week for three successive weeks in at least one newspaper of general circulation in the county and by handbills posted in conspicuous places along or in the neighborhood of the proposed bridge and its approaches, or otherwise, as the court shall direct.

(b) The court shall make an order fixing a time, not less than ten days thereafter, for the filing of exceptions thereto. Upon the hearing thereof, the court may, for proper cause shown, disapprove of said application; otherwise, it shall make an order approving the location and the plans and surveys therefor and authorize such county to construct such bridge and its approaches and to let a contract or contracts therefor under specifications to be prepared by the county engineer or other proper county authority. Thereupon, the said bridge and its approaches shall be deemed to be laid out and opened in accordance with the surveys and plans accompanying said petition.

Section 2774. Approval of State or Federal Officers, Board or Body; Change in Location.—(a) Where the proposed bridge crosses any navigable stream or other public water or the property rights \*or property or rights of way of any railroad or other public service corporation, and by reason thereof the approval of any State or Federal officer, board or body is required as to

\* "of" in original.

the location and construction of such a bridge or its approaches, the county shall be deemed to have full and complete authority to construct such bridge in such other location and in such other manner as may be necessary to comply with the conditions prescribed by such officer, board or body in granting such approval: Provided, The county commissioners be of the opinion, and by resolution duly adopted so decide, that the bridge as thus changed is necessary for the convenience of the traveling public and will accommodate substantially the same traveling public as the bridge would have done if it had been constructed at the location and in the manner originally provided.

(b) Upon the adoption of any such resolution and prior to the construction of such bridge and the entry upon and taking of property for that purpose, such county, through its county commissioners, shall present its petition to the court of quarter sessions of said county, briefly setting forth the facts as to the obtaining of such approval and the change made in consequence thereof and the adoption of such resolution, together with plans and surveys showing the new location and manner of construction and an estimate showing the cost of the construction of such bridge as thus changed.

(c) If the proceedings shall appear to be regular, the court shall make an order fixing a time, not less than twenty days thereafter, for the filing of exceptions thereto.

(d) Notice of the time and place of hearing on said exceptions shall be given by advertisement published once a week for two successive weeks in at least two newspapers of general circulation in such county and by handbills posted in conspicuous places along or in the neighborhood of the proposed bridge and its approaches, or otherwise, as the court shall direct, having regard to the circumstances of the case.

(e) Upon the hearing thereof, the court may, for proper cause shown, disapprove of said petition; otherwise, it shall thereupon make a decree authorizing and empowering the county to contract such bridge in accordance with such new plans and surveys, and thereupon such bridge shall be deemed to have been laid out and opened in accordance with such plans and surveys.

Section 2775. Contracts for Special Use of Bridge.—

(a) The county commissioners may make and enter into contracts or leases with any street railway, telegraph, telephone or other corporation or persons desiring to make use of said bridge and its approaches for other than ordinary public foot or vehicle traffic, and with the successors and assigns of such corporations, for the concurrent use of such portion of said public bridge and

approaches as shall not substantially impair or restrict the public use and enjoyment thereof, upon such terms and conditions as shall be agreed upon, or to charge tolls or rentals for such special use.

(b) No such contract or lease shall be entered into for a longer period than twenty years, nor unless such contract or lease shall be first approved by the Public Utility Commission of this Commonwealth.

Section 2776. Consent of City or Borough.—Should the board of county commissioners, in the exercise of the powers herein conferred, deem it necessary or advisable to enter upon any street or public highway in any city or borough, or to take any other action affecting the property rights or authority of any such city or borough for the purpose of constructing or maintaining any such bridge with its approaches and other appurtenances or otherwise, the consent thereto of such city or borough by ordinance shall be first had and obtained.

Section 2777. County Authorized to Contract With City or Borough.—When such bridge is proposed to be located or erected in any city or borough, the county may agree that such city or borough may bear a portion of the cost of the locating, laying out, opening and constructing of such bridge and its approaches and appurtenances, and that the city or borough may provide the approach therefor and bear the cost of the maintenance of any approach within the respective city or borough, as shall be agreed upon between any such county and such city or borough. All such agreements shall be entered into in writing and at least one executed copy shall be furnished to each county, city and borough becoming a party thereto.

Section 2778. Appropriations and Tax Levy.—The county constructing a bridge under the provisions of this article may appropriate and pay out of the general county funds all moneys necessary for said purposes, and may levy, assess and collect taxes, for the purposes aforesaid, on all real and personal property within said county, now or hereafter taxable for county purposes, in addition to all other taxes.

Section 2779. Incurring of Indebtedness.—(a) The county constructing a bridge under the provisions of this article may, pursuant to a resolution adopted for that purpose by the county commissioners of such county, borrow money and incur indebtedness, for the purpose aforesaid, to an amount not exceeding the limit of indebtedness prescribed by the Constitution of this Commonwealth, in compliance with the laws regulating the manner of increasing such indebtedness, and may also fund any indebtedness incurred for the purpose aforesaid.

(b) It may issue as evidence of such indebtedness registered and coupon bonds, or either of them, payable within thirty years from the date of their issue, and bearing interest at a rate not exceeding six per centum per annum, payable semiannually, which bonds shall not be sold at less than their par value and accrued interest.

(c) The county may also levy and collect taxes on all taxable property in such county, in addition to all other taxes, for the purpose of paying such indebtedness and interest thereon. The county incurring such indebtedness shall, at or before the time of incurring the same, make provision for a sinking fund to pay at maturity all indebtedness so incurred and interest thereon.

Section 2780. To Be County Bridge; Maintenance and Expenses.—All such bridges shall be county bridges, and the duty of maintaining the same shall, except as otherwise herein provided, devolve upon the county, and the expense thereof shall be paid out of the general county funds provided for that purpose.

Section 2781. Collection of Tolls to Pay Off Indebtedness.—Whenever it is necessary, in the location, construction or purchase of any bridge as provided for under this article, to issue bonds in payment of same, including the approaches thereto, the damage sustained by the owner or owners of lands or buildings taken in the location, construction or purchase thereof, and including reasonable fees for necessary legal services required in such location, construction or purchase, the county commissioners may, if the cost of such bridge is in excess of one million dollars (\$1,000,000), assess, supervise and collect tolls for the use of such bridge for all vehicle traffic, as may be necessary to pay the interest on said bonds, and to create a sinking fund for the payment and redemption of the same within thirty years from the date of the issue thereof, and to pay also the costs and expenses of operating, maintaining and repairing such bridge between the time of the location, construction or purchase thereof and the date of the redemption of the last of said bonds to be redeemed by such tolls. In no case shall any tolls be collected after the redemption of the original bonds issued.

(d) Between Municipalities on Petition of Resident  
Taxpayers

Section 2791. Petition for Bridge or Culvert; Appointment of Viewers.—Whenever any city and borough or township or any borough and township are separated by a river, creek or rivulet, the court of quarter sessions of the county in which said city and borough or township are situated, upon petition by not less than twenty-

five resident taxpayers of said county, representing that the erection of said bridge or culvert over said river, creek or rivulet is necessary for the accommodation and convenience of public travel and praying that the county shall erect a bridge or culvert over such river, creek or rivulet and between such city and borough or township, shall appoint three viewers from the county board of viewers to view the locality suggested in said petition for a bridge or culvert, and to make report of their proceedings to the court at the next term thereof.

Section 2792. Duties of Viewers.—(a) The viewers, after having given three weeks public notice, in at least one newspaper published in the county nearest the locality of the proposed bridge or culvert, of the time and place of their meeting, and after having been severally sworn or affirmed to perform the duties of their appointment justly and with fidelity and a true report to make, shall view the locality mentioned in the petition asking for their appointment.

(b) If they shall find that there is occasion for a bridge or culvert as prayed for, they shall proceed to locate the position for the same, having due regard to the convenience and accommodation of public travel and the estimated or probable cost thereof.

Section 2793. Report of Viewers.—The viewers shall make report of their proceedings to the next term of said court or at such other time as the court may direct, and in their report shall state:

First. Who of them were present at the view and whether they were severally sworn or affirmed to perform the duties of their appointment justly and with fidelity and a true report to make.

Second. Whether the bridge or culvert desired is necessary for the accommodation and convenience of public travel and the estimated cost of the same.

Third. If their report is favorable to the erection thereof, the place where they have located said bridge or culvert.

If the report of the viewers favors the erection of a bridge or culvert, they shall attach to their report a map or draft setting forth the location thereof.

Section 2794. \*Proceedings Subsequent to Report of Viewers.—(a) Upon presentation of said report to the court, if the court shall approve of the same it shall be confirmed nisi. After such approval, said report shall at once be presented to the county commissioners who shall either approve or disapprove the same. If the report is approved by them and if no exceptions are filed thereto within ten days after its approval by the county commissioners, the confirmation of the said court shall be made absolute, and the county commissioners shall

\* "Proceeding" in original.

record the same as a county bridge or culvert and shall at once proceed to construct said bridge or culvert with the necessary approaches. After its construction, they shall maintain and keep the same in good repair at the expense of said county.

(b) Should the county commissioners, for a period of two years after presentation of said report to them following the confirmation nisi by the court, neglect or refuse to approve or disapprove of said report, then the court shall, on application by any of the original petitioners for said bridge or culvert, after due notice to the county commissioners, if no sufficient cause be shown to the contrary, order the confirmation of said report to be made absolute, and direct that the same be recorded as a county bridge or culvert and that the commissioners shall at once proceed with the construction thereof and of all necessary approaches.

Section 2795. Ground for Approaches.—For the purpose of securing the proper and necessary approaches for said bridge or culvert, the commissioners of the county in which such approaches are situated, if unable to procure suitable land therefor, may enter upon and occupy sufficient ground for said approaches and may take, injure and destroy the same in accordance with Article XXVI.

Section 2796. County Commissioners May Purchase Bridges Already Erected.—(a) \*If instead of building a new bridge the county commissioners can purchase any bridge already erected at a cost not exceeding ten per centum of what a new bridge can be built for, they may make such purchase, upon the recommendation of the viewers. Such viewers shall also, in their report, file an estimate of the actual value of such existing bridge or what said bridge can be built for. The amount expended by the county commissioners for such purchase shall not exceed the estimate filed by the viewers.

(b) Any street car company having the right of passage over any such bridge shall continue to exercise said franchise after the purchase of such bridge by the county.

Section 2797. County Commissioners May Borrow Money.—For the purpose of carrying into effect the provisions of this article, the county commissioners are hereby authorized to borrow any sum of money, not exceeding the constitutional limitation, if necessary for the purpose aforesaid, at a rate of interest not to exceed five per centum, and to issue bonds therefor.

(e) Joint Action of Counties or County and City

Section 2801. Building or Rebuilding.—Whenever it is necessary to erect a bridge on the boundary line be-

\* "Is" in original.

tween two counties, either to take the place of an inter-county bridge which has become insufficient for any cause to accommodate public travel or to provide a new bridge where none has previously been, such counties may jointly build or rebuild such bridge, after first having obtained the approval of the court of quarter sessions in each county.

Section 2802. *Joining With City.*—When such bridge is on the dividing line between two counties which is also the dividing line between one county and a city in the other county, and such city has authority to build or rebuild such bridge or to join with any county therein, said county may join with said city in the other county in building or rebuilding such bridge. In such case, the approval of the court of quarter sessions of the county so joining with a city only shall be required.

Section 2803. *Cost; Status.*—The cost of such bridge shall be paid in such proportions as shall be agreed upon by the two counties or by the county and city so joining. Such bridge when built shall be an intercounty bridge and be subject to all provisions of existing laws relating to intercounty bridges.

Section 2804. *Taking of Lands.*—Whenever in the construction of a bridge lands are taken in any county joining in such construction and damages are sustained by the owner or owners of such lands, the county commissioners in the county where the lands are located, when possible, shall enter into an agreement with such owner or owners as to the amount of damages to be paid to such owner or owners. If a satisfactory agreement cannot be made as to said damages, they shall be ascertained and paid in the manner and subject to the restrictions and procedure provided in Article XXVI of this act. The damages shall, in either event, be paid by the county in which the lands are located.

#### (f) Acquisition of Bridges

Section 2811. *Purchase or Condemnation.*—On petition to the court of quarter sessions, by at least twenty taxpayers of any county wherein a toll bridge is situated, representing that said bridge is necessary for the accommodation of public travel, and that payment of tolls on such bridge is burdensome to the traveling public and praying that the same shall be taken as a county bridge, and the approval of such petition \*by the court, such county may purchase or condemn such toll bridge.

Section 2812. *When Price Cannot be Agreed Upon.*—If the county desiring to obtain any such bridge with the approaches and appurtenances thereto is unable to agree with the owner or owners of the bridge upon the price to be paid therefor, it may take and obtain the

\* "of" in original.

same in the manner and subject to the restrictions and procedure provided in Article XXVI of this act.

Section 2813. To Be Public Bridge; Tolls or Rentals for Special Use; Preservation of Existing Contracts.—Whenever any such bridge shall be purchased or condemned, the county shall control, maintain and use the said bridge as a public bridge, free from tolls, but it shall have power to charge tolls or rentals for the use thereof from railway, telephone, telegraph companies and other persons making a use thereof for other than ordinary public foot and vehicle travel. Where contracts exist between such persons and the owners of the bridge, such contract shall be preserved for the benefit of the county and shall be assigned thereto.

(g) Acquiring and Rebuilding Bridges Privately  
Owned or Built by Public Subscription

Section 2821. Rebuilding When Destroyed or Abandoned.—The county commissioners of any county may take charge of or rebuild and reconstruct any bridge owned and maintained by corporations where the same has been destroyed by ice or otherwise, within ten years, or abandoned by the owners, where such bridge crosses any stream or river running into or through such county.

Any bridge used exclusively for vehicles and foot purposes, over any stream or river forming the boundary line between two counties, being on the line of a public highway, or deemed necessary for the use of the traveling public, and owned and maintained by corporations or by private persons, or which was built by public subscriptions, which has been destroyed by ice, flood or otherwise, at any time, or which has been or may be abandoned and the site or location and piers and abutments no longer used by the owners, may be rebuilt and maintained jointly as a county bridge by the county commissioners of such counties, and the costs and expenses of such joint reconstruction shall be paid by the said counties respectively in the proportion of the population thereof, as ascertained at the last census.

Section 2822. Mandamus on Petition of Taxpayers if Commissioners Neglect or Refuse to Act.—If the commissioners of said county or counties shall neglect or refuse to act, as herein provided, then, upon the petition or petitions to the court or courts of common pleas of fifty property owners and taxpayers residing in each city, borough or townships in which the bridge is or was located, said court or courts may issue a writ or writs of mandamus to said commissioners to proceed as provided by the preceding section. Such petition or petitions shall set forth fully all the facts and shall be supported by the affidavit of five of said property owners and taxpayers.

Section 2823. Procedure When Damages Cannot be Agreed On.—When said commissioners have taken any piers, abutments, approaches, toll houses or other property necessary for the rebuilding and maintenance of any such bridge, or have taken or impaired any rights or franchises relating to the same, and are unable to agree with the owners upon the amount of damages they may sustain by reason thereof, such damages shall be ascertained and paid in the manner and subject to the restrictions and procedure provided in Article XXVI of this act.

Section 2824. Borrowing Money and Bond Issue Authorized.—For the purpose of carrying into effect the provisions of subdivision (f) of this article, the county commissioners are hereby authorized to borrow any sum of money, not exceeding the constitutional limitations, if necessary for the purpose aforesaid, at a rate of interest not exceeding six per centum, and issue bonds therefor, and may levy and collect taxes on all the taxable property in the county, in addition to all other taxes, for the purpose of paying the principal thereof and interest thereon. Said bonds shall be payable, at the option of the commissioners of the county issuing the same, after five years and within ten years from the date of issue.

(h) Erected by Private Persons or by Public Subscriptions and Donated to County

Section 2831. Acceptance, Taking Charge of and Entering on Record as County Bridge.—The county commissioners of any county may accept, take charge of and enter upon the records as a county bridge, any bridge over any stream or river running into or through any county, which bridge has been erected and constructed at the expense of private persons or by public subscriptions, and has been opened to free public travel, used by the public and become necessary and convenient for the use of the public, upon notice in writing of the persons who erected or caused the same to be erected, or by the subscribers to the original subscription on which the money was raised to erect the same, or the heirs or assigns of such persons or subscribers, or by a duly authorized board of trustees representing such persons or subscribers, of their desire to donate the said bridge to the county wherein the same is situated. Where such bridge crosses a stream forming the boundary line between two counties, the persons or their heirs or assigns, subscribers or trustees representing them, as aforesaid, shall give notice in writing to the county commissioners of each of said counties of their desire to donate such bridge to said counties jointly.

Section 2832. Procedure for Determining Necessity of Bridge.—Before said bridge is accepted by the county

commissioners, the question of its necessity shall be determined in the following manner. The said county commissioners shall, at the next term of the court of quarter sessions after receiving the notice, present the same to said court and petition for the appointment of three viewers, and where said bridge crosses a stream, being the boundary line between two counties, shall present the same to the court of quarter sessions of each county for the appointment of three viewers by each of said courts. The viewers shall immediately fix a time of meeting and give personal notice thereof to the county commissioners and to all other persons by publication in two newspapers published in the county once a week for two consecutive weeks, the last publication of said notice to be not less than ten days prior to the meeting of said viewers. At the time fixed for said meeting, said viewers shall meet at the bridge and, after being sworn to perform the duties of their appointment with fidelity and according to the best of their judgment, shall view the bridge and the approaches leading thereto, and hear any and all persons interested therein, and may, if necessary, adjourn to a subsequent time or times. After a full consideration, the viewers shall report to the court of quarter sessions by which they were appointed at the next session thereof. Such report shall state that said viewers gave notice and were sworn as required herein, that they met at the bridge in question and viewed the same, together with the approaches leading thereto, the condition of the bridge, and whether or not in their judgment the same is necessary and convenient to accommodate travel. The report of said viewers shall lie over until the then next session of said court and, if no exceptions to the proceedings be filed in the meantime, the court shall confirm said report absolutely. The commissioners shall thereupon enter said bridge upon the records as a county bridge or joint county bridge, as the case may be.

**Section 2833. Procedure if Exceptions are Filed.—**In case exceptions to the proceedings provided in the preceding section are filed within the time therein specified, the said proceedings shall stay until the exceptions are disposed of by the court in which they are filed. If said exceptions are sustained, proceedings de novo may be instituted at the next or any subsequent session of said court.

**Section 2834. Payment of Costs.—**All costs shall be paid out of the treasury of the county. The owners of said bridge shall pay the amount of said costs into the county treasury in all such cases as the court by order may direct, and the county commissioners may require the owners of said bridges to file a bond, together with their notice, in a sufficient sum to secure the payment of the same.

## (i) Leasing of Toll Bridges

Section 2841. Leasing of Toll Bridges or Right to Use Same.—Whenever a toll bridge owned or maintained by a bridge company or corporation organized and existing under the laws of this Commonwealth shall span a river or stream in this Commonwealth, and such bridge or any portion thereof is or shall be used solely by the public for general highway purposes, or by the public for such purposes concurrently with the use of the same by any railroad company or street railway company engaged as a common carrier, and the county commissioners of any county or of the respective counties interested shall by resolution declare such bridge or any portion thereof necessary for the accommodation of the public for general highway purposes, and that the payment of tolls on such bridge is burdensome to the public using the same for such purposes, then and in any such event, any such county separately or such counties jointly shall have the power to enter into a contract with such bridge company or corporation whereby such bridge company or corporation may lease to such county or counties such bridge or such portion or portions thereof as may be used by the public for general highway purposes, for the use of the same by the public for said purposes, free from the payment of tolls, at such rental or rentals and for such definite term of years, not to exceed twenty (20) years in duration, and upon such other terms and conditions as may be agreed upon and as the county commissioners of such county or counties shall deem reasonable and proper, or enter into a lease with such bridge company or corporation providing for the use, during a definite period not exceeding twenty years, of any such bridge or any portion thereof, by the public for general highway purposes, free from the payment of tolls, during the term of any such contract, subject to the concurrent use of such bridge or any portion thereof by any railroad company or street railway company engaged as a common carrier and making use of said bridge or any portion thereof, which lease shall contain such terms of payment for such use by the public of such bridge or any portion thereof and such other terms, provisions and conditions as may be agreed upon and as the county commissioners of said county or counties shall deem reasonable and proper.

Section 2842. No Tolls to Be Charged.—No tolls shall be charged the public for the use of said bridge or any portion thereof for general highway purposes during the term of any such lease or any such contract.

Section 2843. Payment of Rental and Expenses.—The rental or compensation to be paid to any such bridge company or corporation and the expense of maintenance

and repair and any other expense and obligation shall be borne and paid by any such county or by the several counties respectively in such proportions as may be agreed upon by the county commissioners or the county commissioners of the respective counties.

Section 2844. Approval of Public Utility Commission.—Any such contract entered into under the provisions of this act shall be approved by the Public Utility Commission of the Commonwealth in the manner prescribed by law.

Section 2845. Appropriations; Tax Levies; Indebtedness.—The several counties shall have power to appropriate money, levy taxes and to incur indebtedness for the purpose of complying with the provisions of any contract entered into under the provisions of this article.

(j) Joint Action with Municipalities

Section 2851. City Bridges Benefiting Neighboring Townships.—Whenever different parts of any city or any part of such city and any township bordering thereon are separated therefrom by any intervening valley or ravine, and the county commissioners of such county shall decide it necessary that a public bridge for the purpose of connecting the territories thus separated be constructed and that such bridge will be of substantial advantage and benefit to the taxable inhabitants of the township bordering thereon or townships adjacent thereto, such county may contract with such city for the laying out and construction by such city of such bridge and may pay to the city such portion of the cost thereof as the county commissioners shall deem reasonable, and shall appropriate money, levy taxes and incur indebtedness therefor.

Section 2852. Municipal Bridges Where County Might Have Built Bridge.—Where, under the provisions of existing laws, a city of the third class, a borough or a township of the first class is authorized to construct a bridge or viaduct over a river, creek or stream or other place over which the county is authorized to build bridges, and such municipality is authorized to contract with the county and with railroads, street railways and other companies or parties interested for the building and maintenance of such bridge or viaduct, and for the payment of any damages caused by the location or erection thereof, the county commissioners may, with the approval of the court of quarter sessions, contract with such city, borough or township for that part or portion of the bridge or viaduct which crosses any of the places hereinbefore mentioned, including the abutments and piers thereof. Such part shall thereafter be maintained as a county bridge. In lieu thereof, the county commissioners may, with the approval of the court, contract for

any part or portion of the whole structure equal to or greater than the part or portion which the county might have built.

Section 2853. Contribution Where County Might Not Have Built Bridge.—When such bridge or viaduct is built by a borough or township of the first class and does not cross any place over which the county is authorized to construct a bridge but crosses merely railroad or railroads and private property, the county commissioners may, subject to the approval of the court of quarter sessions, contract to pay an amount of money, not exceeding thirty per centum of the entire cost of the proposed bridge or viaduct. Such bridge or viaduct shall thereafter be maintained as a borough or township structure, and the county shall not be liable for any part of the cost of maintenance or repair thereof.

Section 2854. Stipulations of Contracts.—The contracts herein provided for may stipulate that the county shall pay a certain part or portion of the whole contract price or cost of the work, including damages, or may stipulate that the county 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. The amount to be paid by the county shall be paid directly to the contractor, as may be provided by the contract. The agreements may also provide for the maintenance of the viaducts and bridges after their erection.

Section 2855. Contracts for Work.—After any such contract has been entered into, the county commissioners, in conjunction with the city, borough or township, shall have prepared plans and specifications of the entire work and shall advertise for bids and award the contract to the lowest responsible bidder. Such contract shall provide that the county shall pay its certain part of such bridge or viaduct directly to the contractor. The contractor shall have a right of action against the county for the part of the contract which the county agrees to pay.

Section 2856. Contracts May be Recorded.—Any of the contracts hereinabove provided for may be recorded in the recorder's office. Such record shall be notice to all persons who might be affected thereby.

Section 2857. Purchase or Condemnation of Public Toll Bridges.—Where, under the provisions of existing laws, a borough or other municipality may purchase, condemn and maintain any toll bridge crossing any river or stream within the limits of such borough or municipality, and may enter into contracts with the county commissioners whereby the county shall pay a portion of the costs thereof, the county commissioners may, upon

petition of at least twenty taxpayers of the county to the court of quarter sessions and the approval thereof by the court, enter into such contract, upon such terms and conditions as may be agreed upon, for the purchase, appropriation or condemnation of such bridge. The contract may stipulate that the borough or municipality and county shall each pay a certain portion of the purchase price or the damage allowed by any condemnation proceedings, and may also provide for the maintenance and repair of such bridge. The amount to be paid by the county shall be paid into the borough or municipal treasury and shall be applied solely to the payment of such bridge.

### Article XXIX

#### Roads

##### (a) Authorization, Construction and Maintenance

Section 2901. County Roads; Establishment and Maintenance.—(a) The words defined in section 2801 of this act shall be construed to have like meanings when used in this article.

(b) Establishing County Roads. For the purpose of providing public roads, specially constructed, improved and maintained, the county commissioners may, upon approval by the court of quarter sessions, originally lay out and open any road, and take possession of and exercise control over any existing township road or part thereof, and build and maintain roads as county roads within their respective limits. They may, at any time, straighten, widen, extend and alter any such road or part thereof, and vacate so much thereof as may become unnecessary and useless. Any road so taken over or improved shall thereupon become a county road and be subject to the control and supervision of the county commissioners. It shall be the duty of the county to keep and maintain county roads established under this act and all other county roads in repair, the expense thereof to be paid by the county in the manner hereinafter provided.

(c) Acquisition of Rights of Way of Abandoned Railroads. The commissioners of the county may take over any abandoned rights of way or bridge of a railroad company or any part thereof for the purpose of relocating any existing or locating a new county road, and they may purchase such abandoned right of way or bridge or such part thereof, as may be necessary for the relocating or locating of said county road, from the owner thereof, at a fair price, to be approved by the court of quarter sessions of the county.

Whenever any such abandoned right of way or bridge of a railroad company or any part thereof is purchased

under the provisions of this section, a county road shall be laid out and located thereon and shall thereafter be constructed, improved and maintained in accordance with law. Any such bridge so taken over shall become a county bridge and shall be maintained, rebuilt and repaired accordingly.

(d) Joint Action by Counties. The provisions of this article may also be exercised jointly by adjoining counties as to roads extending along and adjacent to county lines and from one adjoining county into another.

The procedure and jurisdiction in each county in such cases shall be the same as to any portion of such road lying within its limits, except that the petition, plans and surveys of such road shall describe and exhibit every portion of such road within the limits of such county and every portion thereof extending along the line of or into an adjoining county. The several portions thereof lying within limits of each county shall be treated in all proceedings as one continuous road.

(e) To Be County Road as Soon as so Decreed. All roads and parts thereof heretofore and hereafter decreed by the court under this or any former acts of Assembly to be a county road shall be subject to the control and supervision of the county commissioners. Upon the decree or order making an existing township road or part thereof a county road, the same shall immediately be kept in repair, made, constructed and maintained by the county and the township relieved of any duty thereto as a township road.

(f) Maintenance and Repair of County Roads. The commissioners shall have prepared plans and estimates, as often as required, for the repair and maintenance of all roads which the county is required by law to maintain and repair. They may invite proposals for maintaining and repairing such roads or parts thereof in accordance with such plans and estimates and award the contract therefor in like manner as contracts for new improvements, or they may make the necessary repairs themselves. For the purpose of making such repairs, the commissioners may employ or appoint the proper persons and buy the necessary materials and buy or rent the necessary machinery. The county may also lease any of its machinery to any political subdivision within the county, upon such terms and conditions as may be agreed upon.

(g) Annual Tax. The commissioners may levy, assess and collect an annual tax, of not more than two mills upon the dollar, upon all real and personal property within said county taxable for county purposes for the purpose of acquiring and securing a fund from which to

pay all costs, damages and expenses required in the locating, opening, building, improving, widening, \*straightening, extending, maintaining, repairing or vacating of roads or parts thereof covered by the provisions of this section, and for the taking and use of such land as may be necessary in constructing and maintaining proper slopes, embankments, fills and culverts. The moneys so raised shall not be expended for any other purposes than those named in this section, except for the maintenance, repair, construction and reconstruction of any county bridge or bridges, whether or not located on a county road or roads. All warrants for the payment of any portion of the money raised for the purposes aforesaid shall be issued, in the manner provided by this act, upon estimates which shall be made from time to time by the persons charged with such duty. The amount and time within which the same shall be paid shall be fixed and determined in the contract made for the public work.

(h) Borrowing Money; Bond Issue and Tax Levy. The county commissioners may borrow money and secure any indebtedness created by them for the purposes authorized under this section by issuing bonds in accordance with the provisions of the Municipal Borrowing Law.

(i) Changing Part of Road Without View. Whenever the board of commissioners deem it advisable to construct or alter any part of any road under their supervision and can agree with the property owners affected by such change as to damages, they may, upon payment of the damages agreed upon, construct or alter such part of such public road as contemplated in such agreement without the formality of a view. This authority shall not extend to any construction or alteration, the costs and expenses of which to such county, including damages, shall exceed one thousand dollars (\$1000). A petition setting forth the facts, accompanied by a map or draft of such proposed change, shall be presented to the court of quarter sessions for approval before such actual change is made, whereupon the new location thus approved by the court shall be the public road to all intents and purposes and the old location shall be vacated.

(j) Assessment of Benefits. Whenever, in the county, any road or highway shall be originally located, laid out or constructed or relocated, opened, straightened, widened, extended or altered, or any part thereof vacated, the viewers appointed to assess damages for taking, injuring or destroying property, after having determined the amount of damages sustained, shall assess the whole or such part of such damages as may be represented by

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\* "straightening" in original.

benefits upon the properties abutting on and benefited by such improvements. The remaining part of such damages, if any, not so assessed against the abutting properties, shall be paid by the county. The total assessments for benefits shall in no case exceed the total damages awarded and agreed upon.

The viewers shall in such cases file their report showing the balance struck between the damages awarded and the benefits assessed.

(k) Interest on Benefits Assessed. All assessments for benefits shall bear interest at the expiration of thirty days after they have been finally determined and fixed and shall be payable to the treasurer of the county.

(l) Liens for Benefits Assessed. All liens for the assessment of benefits pursuant to the provisions of the two preceding subsections shall be filed, revived and collected in accordance with law.

No appeal taken shall prevent the filing of liens by the county for any assessment made by virtue of the viewers' report, but upon the final determination of the issue the court may make such order as to any lien filed that shall appear right and proper.

(m) Sidewalks Along County Roads. Whenever considered necessary for the safety and accommodation of the public, the county commissioners may locate, construct and maintain sidewalks along county roads. The cost of the construction and maintenance of said sidewalks shall be paid by the county.

(n) Lights Along County Roads. Whenever considered necessary for the safety and convenience of the traveling public, the county commissioners may supply and equip any county road or parts thereof with lights of such kind as they shall deem necessary. The commissioners may for this purpose contract with any individual or with any municipal or private corporation. The cost of the construction may and the cost of maintenance of the said lights shall be paid by the county.

Section 2902. System of Main Thoroughfares in County.—(a) Adoption of System. The county commissioners may, in the manner provided by this section, cause to be laid out, surveyed and adopted a system of main thoroughfares which said board shall adjudge the proper roads to be established and specially constructed and improved. In adopting such system, the commissioners shall consider the population and needs of all parts of the county and make an equitable distribution of the roads to be specially constructed, located and improved by the said county. They shall cause a plan or plans to be made showing said system of proposed roads, the relation of the proposed roads to existing public roads which connect therewith or are to be supplied

thereby, the names of abutting property owners, and also roads which already have been improved by the county. Upon approval of said plan or plans by the commissioners, they shall cause said approval to be engrossed upon said plans and certified by at least two commissioners. Said plans shall be filed for public inspection in the office of the commissioners and recorded in the office of the recorder of deeds in a book to be provided for the purpose.

No part of the proposed roads of said system shall be an easement upon private property or in any manner interfere with the use thereof until established as a public road by the action of the court of quarter sessions.

(b) Improvement of Borough and Township Roads. Whenever such system of main thoroughfares has been adopted or when the adoption thereof is contemplated within two years after the commencement of such improvement, the commissioners may, upon approval by the court of quarter sessions as hereinafter provided, take exclusive control of and improve any road or section thereof located either wholly or in part in any borough or township, whether existing by their authority or laid out in whole or in part by virtue of this act or otherwise. For that purpose, they may originally locate, lay out, establish in whole or in part, relocate, straighten, widen, extend, alter and open roads, and construct and improve the same, and vacate so much of any roads as may be thereby rendered unnecessary and useless. Any road as established or altered, constructed and improved under the provisions of this subsection shall, by ordinance enacted by each borough or by resolution adopted by the commission or supervisors of each township through which such road shall pass, become borough or township roads, and the duty of maintaining and keeping the same in repair shall devolve upon each respective township or borough through or into which the same extends.

(c) Plan of System to Be Followed ; Variations. After such plans have been adopted and recorded pursuant to law, all applications under the preceding subsection to the court of quarter sessions shall be restricted and shall relate only to the establishing, opening, construction and improvement of the proposed roads of said system or parts thereof and the vacation of roads supplied by the portion opened and improved. The commissioners, upon approval by the court of quarter sessions as hereinafter provided, may relocate, straighten, widen, extend, alter and open, construct and improve the proposed roads as laid out, surveyed, marked and shown upon the plans of said system, or to originally locate, lay out and establish, construct and improve roads

which substantially supply said system or parts thereof which, although not parts of said system, are deemed by the said court to be main thoroughfares of sufficient importance to be improved by the county and to be added to said plan, and in such case to vacate so much of the roads of said system and of roads already established as may be rendered unnecessary by the changes or by an entirely new location.

(d) Improvement of Roads Not Part of System on Contribution From Parties Interested. The commissioners may also originally locate, lay out and establish in whole or in part, relocate, straighten, widen, extend, alter and open, construct and improve roads not parts of said system nor deemed main thoroughfares, upon parties interested therein paying or securing to be paid, in a manner to be approved by the court of quarter sessions, such proportion of the cost of the original construction and improvement as the commissioners may deem just, which shall not be less than one-fourth of such cost in any case.

(e) Annual Tax. The commissioners may levy, assess and collect an annual tax, of not more than two mills upon the dollar, upon all real and personal property within the county taxable for county purposes, for the purpose of acquiring and securing a fund from which to pay all costs, damages and expenses required in locating, opening, widening, straightening, extending, building, improving, maintaining, repairing or vacating of the roads or parts thereof improved under the provisions of this section, and for the taking and using of such land as may be made necessary in constructing and maintaining proper slopes, embankments, fills and culverts. The moneys so raised shall not be expended for any other purposes than those named in this subsection. All warrants for the payment of any portion of the money raised for the purposes aforesaid shall be issued, in the manner provided by this act, upon estimates which shall be made from time to time by the person charged with such duty, and the amount and time within which the same shall be paid shall be fixed and determined in the contract made for the public work herein authorized.

(f) Borrowing Money and Bond Issue. Any county may borrow money and secure such indebtedness by issuing bonds in accordance with the provisions of the Municipal Borrowing Law for the purpose of building and improving the roads or any part thereof constructed under the provisions of this section.

Section 2903. Providing Roads, Tunnels, Subways and Underground Roads.—(a) Whenever the county commissioners shall deem it expedient so to do and upon the approval thereof by the court of quarter sessions as hereinafter provided, they may cause to be purchased,

located, constructed, operated and maintained roads, tunnels, subways or underground roads anywhere within the county, either wholly or partly within the boundaries of any city, borough or township. Any road, tunnel, subway or underground road purchased or constructed under the provisions of this section shall forever thereafter be a county road, tunnel, subway or underground road, and the duty of maintaining and keeping the same in repair shall devolve upon the county. The expense thereof shall be paid by the county as hereinafter provided.

(b) Contracts or Lease for Special Use of Improvements. The commissioners, subject to the approval of the court of quarter sessions, may make a contract or lease with any street railway or transportation company, its successors and assigns, for the concurrent use of such a portion of said road, tunnel or subway or underground road, as shall not substantially impair or restrict the public use and enjoyment thereof, upon such terms and conditions as shall be agreed upon. No such contract or lease for the concurrent use of a portion of such improvement shall be for a longer term or period than twenty years. Any such contract or lease shall be made in accordance with applicable provisions of the Public Utility Law.

(c) Taking Street or Other Property of City or Borough. Should the commissioners of the county deem it necessary or advisable to enter upon or appropriate any road or property of any city or borough in the county, or take any other action affecting the property rights or authority of such city or borough, for the purpose of constructing or maintaining a road, tunnel, subway or underground road, or in connection with the improvement of any of them, which has been or is about to be purchased by the county or otherwise, the consent thereto of such city or borough by ordinance shall be obtained before the actual entering in or upon or the appropriation of such road or property. After such entry and appropriation, the county shall be liable and charged with the supervision, control and maintenance of said roads and properties, or so much thereof as is taken and used for the purpose of constructing and maintaining such road, tunnel, subway or underground road, or in connection with the improvement of any of them, purchased or to be purchased as aforesaid.

(d) Annual Tax Levy. The commissioners may levy, assess and collect an annual tax, of not more than two mills on the dollar, on all real and personal property within the county taxable for county purposes for the purpose of acquiring and securing a fund from which to pay all costs, damages and expenses required in the pur-

chasing, improving, locating, opening, constructing, maintaining and repairing roads, tunnels, subways and underground roads, purchased or constructed under the provisions of this section, and the taking and using of such land as may be made necessary in constructing the same and in maintaining proper slopes, embankments, approaches and termini for said roads, tunnels, subways and underground roads. The money so raised shall not be used or expended for any other purposes than those named in this subsection. All warrants for the payment of any portion of the money raised for the purposes aforesaid shall be issued, in the manner provided by this act, upon estimates which shall be made from time to time by the person charged with such duty. The amount and time within which the same shall be paid shall be fixed and determined in the contract made for the public work herein authorized.

(e) **Borrowing Money and Bond Issue.** The county may borrow money and incur indebtedness in accordance with the provisions of the Municipal Borrowing Law, to an amount not exceeding the constitutional limitations, for the purchase and improvement or construction of such roads, tunnels, subways and underground roads.

**Section 2904. General Provisions.—(a) Procedure to Obtain Approval of Quarter Sessions.** When the county commissioners resolve to exercise any of the powers conferred in subdivision (a) of this article, they shall cause to be prepared surveys and plans of such road or tunnel, subway or underground road showing the improvement proposed to be made, together with any proposed changes in existing roads, and they shall present such surveys and plans, together with their petition, on behalf of the county, to the court of quarter sessions, praying for approval of such proposed exercise of powers. Such petition shall briefly describe the proposed improvement and the estimated cost thereof and, if the method of construction has not been fully determined, the estimated cost thereof according to each of the several methods in which the improvement may practicably be made.

On the filing of such petition, the court shall fix a time for a hearing thereon. Notice of said hearing shall be given, by an advertisement published at least ten days prior to the hearing in two newspapers of general circulation in the county, which notice shall briefly describe the location of the improvement proposed to be made and the time, place and purpose of said hearing. Upon the hearing thereof, the court may, for proper cause shown, disapprove the petition; otherwise, it shall approve the same and order that said improvement be made and constructed in accordance with the plans and surveys accompanying the petition. Thereupon, any original location,

relocation, opening, widening, straightening, extension, alteration or vacation of any road as set forth in said proceedings and the right to proceed with such improvement shall become absolute.

The words "improved" or "improvement" as herein used mean each and every power conferred upon counties under the terms of any of the preceding sections of this article.

(b) **Right of Eminent Domain.** For the purposes described in this section, the county commissioners may enter upon private or public property and may take, injure and destroy the same in the manner and subject to the restrictions and procedure prescribed by Article XXVI of this act.

(c) **Contracts for Improvements.** After said surveys and plans and the petition to the court of quarter sessions have been approved by the court, and the road, tunnel, subway or underground road ordered to be made and constructed in accordance therewith, the commissioners shall invite proposals and let contracts for the making and constructing of the same or such parts of the same as the commissioners shall deem proper, in accordance with the provisions of Article XX of this act and of sections 2518 and 2519 and such provisions of Article XXVIII of this act as establish additional requirements for advertising for bids, for inspection of plans and specifications by bidders, and for the dating and marking of bids filed.

(d) **Procedure Where Property is Left Without Outlet by Reason of Vacating of Part of Old Road.** Whenever, by reason of the relocating, opening, widening, straightening or extending of any road or any part thereof, any part of the road involved becomes useless and is vacated, and the property of one owner shall intervene between the new road and the lands of another owner, having no outlet by reason of said relocation, opening, extending, straightening and widening, it shall be the duty of the said county commissioners to obtain from the owner of said intervening property and the owner of the formerly contiguous or adjoining land an agreement satisfactory to such parties for providing an outlet for the said land. If the parties shall not agree to the transfer of the properties so intervening upon the new road, and any such lot or piece of land, in the opinion of the said county commissioners, be insufficient for building purposes, it shall be taken and used as part of said road or highway.

(e) **Parties Making Application for New Road to Notify Local Road Authorities.** In all cases wherein any proceedings are about to be had before the county commissioners or court for the laying out, opening and construction of new roads for public use, it shall be the

duty of the parties making application to the commissioners or to the court for the appointment of viewers, reviewers or re-reviewers to lay out, open or construct such, to give written notice of such application to the supervisors or commissioners of the territory through which the proposed road is designated to be laid out and constructed, of the time and place of such application, and of the time and place of the meeting of viewers, reviewers and re-reviewers. A copy of said written notice, properly attested, shall be filed among the records of the court having cognizance of the matter. Failure to comply with the provisions of this subsection as to such notice shall be sufficient grounds for an application to set aside whatever proceedings may have been taken of which said supervisors or commissioners had no written notice.

(f) **Unlawful to Raise Road Above Ordinary Grade Over Drain or Culvert.** In the construction or repair of any road, it shall be unlawful for the person or persons in charge of such construction or repair to raise such road or permit the same to be raised or elevated above the ordinary grade thereof, when a drain or culvert shall be constructed under such road or when such road shall be constructed or repaired over such drain or culvert.

**Section 2905. Drains and Ditches.**—In the construction, reconstruction or maintenance of any county road or highway, the county is hereby authorized and empowered to enter upon private property, except the right of way of a railroad company, for the purpose of constructing, reconstructing or maintaining storm water drains, ditches or channels, and the inlets and outlets thereto.

**Section 2906. Damages for Entry on Lands.**—Any damages sustained by the owner or owners of land entered upon by the county shall be paid by the county or counties within which said property is located. The determination of the amount of damage shall be in accordance with existing laws relative to determination of damages for the location, relocation, construction, reconstruction, etc., of county roads.

**Section 2907. Penalties for Injuring Drains, Etc.**—If any person shall stop, fill up or injure any such drain, channel or ditch, or the inlets or outlets thereto, or shall divert or change the course thereof, without any authority of the county, or shall be responsible for the same, and does not eliminate or remove such obstruction or interference with said drains, channels, ditches, etc., upon ten (10) days notice in writing from the county so to do, then and in that case such person shall, upon summary conviction in an action before any magistrate, alderman or justice of the peace, be sentenced to pay a fine or penalty of ten dollars (\$10) for every such offense, to-

gether with the costs of prosecution, and such fines as shall be imposed shall be paid to the treasurer of the proper county. Every day's violation, after written notice has been received by the proper person, shall constitute a separate offense: Provided, however, That nothing herein contained shall limit or deprive the said counties of any other remedy which they may now or in the future have, in law or equity.

(b) Vacation as County Roads

Section 2909. Vacation as County Roads.—Upon petition of the county commissioners, the court of quarter sessions may vacate as a county road any portions of any abandoned or condemned turnpike road, or any portions of any turnpike road purchased by the county, or of any road, the permanent location or improvement whereof has been ordered or made under this or former acts relating to county roads. All portions of such roads so vacated shall become and be township roads, if located within a township, or shall become and be borough or city roads, if located within a borough or city. Written notice of the contents of said petition and the time when the same will be presented to the court shall be given by the county commissioners to the supervisors or commissioners of the township or townships or to the council of the borough or city through which said road passes, at least ten days before the date of presenting the same. At the time said petition is presented, the court may fix a time for hearing in open court, or may refer the matter to an examiner to take testimony and report his findings to the court at such time as the court shall direct. At any hearing in open court or before an examiner appointed by the court, all parties in interest may appear and be heard. After such hearing, the court, if it shall find that the conditions prescribed by this act have been \*compiled with, may grant the prayer of the petitioners and make a decree accordingly or make such order in the premises as it deems right and just. No order of vacation shall be made until the township, borough or city affected shall have consented thereto by an ordinance or resolution certified to the court.

(c) Continuous Highways from One County  
to Another

Section 2912. Laying Out; Altering; Vacating.—Roads forming or intended to form a continuous highway from one county to another, which cross a river, creek or rivulet forming a boundary line between said counties, may be laid out or altered or vacated in the manner provided in the case of other roads, except that the court of quarter sessions of each county shall appoint three view-

\* "compiled" in original.

ers and that a report as aforesaid shall be made to each court respectively, and that each court shall otherwise have and exercise concurrent jurisdiction therein.

(d) County Aid to Municipalities and Townships

Section 2920. *Municipal Streets Connecting Two Ends of County Road.*—When a city or borough intervenes between two ends of a county road, and the municipality has failed to properly improve the municipal streets constituting the shortest and most reasonable route through said municipality which will connect the two ends of such county road, the board of commissioners may contract with the corporate authorities of the municipality that the shortest and most reasonable route through said municipality connecting the two ends of such highway be improved.

Section 2921. *Municipal Streets as Terminus of County Road.*—When a county road terminates at the corporate limits of a city or borough in the same or in another county and connects with a municipal street which the municipality has failed to properly improve, and the commissioners of the county in which the municipality is located deem the improvement of such municipal street necessary in order to make such county road easily accessible to the residents of the municipality or to the traveling public, the county commissioners may contract with the corporate officials of the municipality that such municipal street or any part thereof be improved, and also that there be improved, when necessary, any parts of the streets connected therewith which connect said county road with the business districts of said municipality or with a system of improved streets therein or which connect the said road with another county road terminating at the limits of said municipality. If several municipalities are contiguous to each other and at the corporate limits of any one of them a county road terminates and one or more of such municipalities have failed to properly improve any municipal street therein, and the county commissioners deem the improvement of such street necessary in order to make such county road easily accessible to the residents of the municipality or to the traveling public, the board of commissioners may enter into a similar contract with the corporate authorities of such municipality or municipalities.

Section 2922. *Improvements.*—The board of commissioners may widen, repave or otherwise improve said municipal streets whenever the same is necessary to accomplish any of the purposes of sections 2920 and 2921 of this act. Whenever such improvement is made to a municipal street, the county may pay the total cost of such improvement, or the cost may be divided between

or among the municipality or municipalities and the county. The contract for any such improvement may be taken by the county upon the stipulation by any municipality to pay its proportionate share of the cost, if any, upon the completion of the work, or it may be taken by any municipality upon a like stipulation of the county, or the improvement may be made by joint contract.

Section 2923. Maintenance.—Before any municipal street is so improved, the board of commissioners and the council of such municipality shall agree upon the maintenance of such street. Such agreement may provide that such street shall be kept and maintained in good repair by the municipality, in which case, upon the completion of said improvement, all further liability and responsibility of the county shall cease and determine, or it may provide that it shall be kept and maintained in good repair by the county and the share of the municipality shall be paid annually to the county.

Section 2924. Contracts With Borough, Township or Incorporated Town.—The board of commissioners may contract with the authorities of any borough or township, separately or jointly, providing that the commissioners shall construct an improved road in a similar manner as a county road. The expense or cost of said construction shall be borne jointly by the borough, township and the county in such ratio or proportions as may be agreed on in said contract or contracts, irrespective of whether the municipality intervenes between two ends of the county road or not, or whether or not the municipality is the terminus of a county road, State highway or township road.

Section 2925. Payment.—Payment for the construction of said road or roads shall be made by the county, which shall be reimbursed by the borough or township in such sums as agreed upon in said contract or contracts, upon presentation to them, from time to time, of estimates and bills for work already performed and paid for.

Section 2926. Repair and Maintenance.—Any such road constructed jointly shall be repaired and maintained at the expense of the county, but nothing shall prevent the authorities of a borough or township from entering into a contract or contracts with the county for the maintenance of said improved road under such terms and conditions as may be mutually satisfactory.

Section 2927. Where Center Line of Highway is Boundary Between City or Borough and Township.—Whenever the center line of any road constitutes the dividing line between any city or borough and a township located in the same county, the board of county commissioners and the commissioners or supervisors of such

township may enter into a contract with the city or borough providing for the grading, curbing and macadamizing or paving of the roadway of said road. The cost thereof shall be borne one-half by the city or borough and one-half by the county and township, in equal portions.

Section 2928. Alteration or Improvement.—The said alteration or improvement shall be constructed and subsequent repairs shall be made under the supervision of the proper authorities of the city or borough, in compliance with laws governing the construction of such alterations or improvements in said city or borough, and in further compliance with plans and specifications to be agreed upon in writing between the said city or borough and the board of commissioners of the county and commissioners or supervisors of the township. The cost of repairs shall be borne one-half by the city or borough 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.

Section 2929. Where Center Line of Road is Boundary Between City or Borough and Township in Adjoining County.—Whenever the center line of any road constitutes a dividing line between a township and a city or borough located in an adjacent county, the board of commissioners of the county and the commissioners or supervisors of such township may enter into a contract with the city or borough providing for the grading, curbing, macadamizing or paving of the roadway of said road. The cost thereof shall be borne one-half by the city or borough and one-half by the township and the county in which such township shall be situated, in equal portions.

Section 2930. Alteration, Improvement and Repairs.—Said alteration or improvement shall be constructed and subsequent repairs shall be made under the supervision of the authorities of the city or borough, in compliance with laws governing such construction or improvement by such city or borough, and in further compliance with plans and specifications to be agreed upon in writing between such municipality and board of commissioners of the county and the commissioners or supervisors of the township. The cost of repairs shall be borne one-half by the municipality 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.

Section 2931. Improvement on Order of Court of Quarter Sessions.—(a) In all cases in which it shall be found impossible to enter into such contracts or agreements, or where either the city or borough and the township or the county in which such township is situated

shall refuse to enter into such contract or agreement, either the municipality or the county or township may present its petition to the court of quarter sessions of either county setting forth the facts and circumstances, including the condition of the road from which the necessity and desirability for the grading, curbing, macadamizing or paving of the roadway appears, and the estimated cost thereof, and that the terms of such contract cannot be agreed upon by the municipality and county or township, or either or any of them, or that either such municipality or the county or township or any of them refuses to enter into such contract.

(b) The petition may pray that the court, 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, 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 said petition, duly certified, shall be served upon the municipality or county and township concerned, other than the petitioner, with notice of the day fixed by the court for the hearing. Thereupon, any of the parties served with such notice shall be entitled, on or before such date, to file in the court its answer to 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.

(c) The court, upon the date 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, to the court, which may reject, confirm or modify the same, and may make its decree or order directing the making of such alterations or improvements to the roadway as may be deemed reasonably necessary or desirable, and providing for the sharing of the cost of such improvements, one-half by the municipality and one-half by the county and township, in equal portions.

(d) Said order or decree may further provide that the repairs to such alterations and improvements subsequently required shall be borne one-half by the municipality, whether borough or 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 grading, curbing, macadamizing or paving of the roadway of such road shall proceed in accordance with the decree or order of the said court, in the same manner

as if the contract or agreement had been entered into and duly executed.

Section 2932. Guards or Barriers Along Township Roads.—When a township road runs along the edge of a precipice along which it may be necessary to erect guards or barriers for the proper protection of the traveling public, and the erecting of such guards or barriers requires more expense than it is reasonable the township should bear, the court of quarter sessions having jurisdiction shall, on the representation of the supervisors or on the petition of any of the inhabitants of such township, order a view. If, on the report of the viewers, it shall appear to the court and to the commissioners of the county that such guards and barriers are necessary and would be too expensive for such township, the same shall be erected and maintained by the county as county improvements. The county and the township may contract to share the cost thereof jointly. The provisions of this section shall apply to roads already opened as well as those hereafter opened.

Section 2933. Improvements of Roads Connecting with State Highway.—The county may, singly, or jointly with any city or borough, appropriate and expend moneys for the improvements of any road, not more than one mile in length in distance, outside of the limits of such city or borough, for the purpose of connecting improved streets in such cities or boroughs with a State highway.

Section 2934. Purchase of Road Machinery; Renting of Road Machinery to Townships.—The county commissioners of any county may purchase such machinery for the preparation of road material and the construction and maintenance of roads as they deem necessary and pay for the same out of the general funds of the county. Such machinery may be rented by the county commissioners to any of the townships within such county applying for same, under such regulations and at such rentals as the county commissioners shall prescribe and fix. All machinery purchased under the provisions of this section shall be operated only by persons employed for that purpose by and under the direct supervision of the county commissioners.

#### (e) Detours

Section 2940. Laying Out Detours When County Road is Closed.—(a) Except in the case of emergency wherein the safety of the public would be endangered, no county road shall be closed to vehicular traffic except upon order of the county commissioners, nor for a longer period than is necessary for the purpose for which such order is issued. Except for temporary emergency police

measures wherein the safety of the public would be endangered if it were not temporarily closed, no county road shall be closed to vehicular traffic when the same has been designated as a detour by the Department of Highways of the Commonwealth unless the written consent of the Department of Highways has first been obtained, or unless the county commissioners having jurisdiction over said road shall, by resolution, declare such closing necessary for the protection of the public safety.

(b) Whenever any county road shall be closed to vehicular travel, the board of commissioners shall immediately designate or lay out a detour, on which they shall cause to be erected and maintained, while such detour is in use, legible signs at each public road intersection throughout its entire length indicating the direction to the main highway. During the period when such detour is in use, the county commissioners shall maintain such detour in safe and passable condition. They shall also immediately remove all detour signs when the highway originally closed is again opened for traffic.

(c) The county commissioners shall, as soon as possible, repair the road designated as a detour and place it in a condition at least equal to its condition when designated as a detour.

(d) "Highway" as used in this act includes all public thoroughfares and ways equally with the word "road," for convenience of expression.

Section 2941. Detour Over Private Lands.—Whenever necessary in the creation of a detour as aforesaid, the county commissioners responsible for laying out the detour may enter into an 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 shall be closed to traffic. In the exercise of the rights conferred by this section, the county commissioners responsible are hereby empowered to pay for the necessary maintenance, subsequent repair and land rental out of such funds as are available for the construction and maintenance of the roads in their charge.

Section 2942. Fines and Damages.—(a) Any person who shall wilfully remove, deface, destroy or disregard any barricade, light, danger sign, detour sign or warning of any character whatsoever, erected or placed under authority of section 2940 of this act, or who shall drive on, over or across any road 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 (\$25) nor more than one hundred dollars (\$100) and the cost of prosecution, and in default of the payment thereof, shall be imprisoned one day for each dollar of fine and costs unpaid: Provided, however, That persons who have no outlet due to the closing of a road may drive on, over or across such road, with the consent in writing of and subject to such conditions as may be prescribed by the county commissioners responsible for the closing, or their agents or contractors, without being subject to the fines imposed by this section.

(b) In addition to the fines herein provided, the county commissioners responsible for the maintenance of a road 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 road when it is closed to vehicular traffic.

(c) All fines collected under the provisions of this section shall be paid by the officer receiving the same to the treasurer of the boroughs, towns or townships in which the offenses shall have been committed.

#### (f) Protection of Roads

Section 2950. County Road Caretakers.—The persons appointed by the board of commissioners to inspect and repair roads improved and maintained as county roads shall be designated county road caretakers. The caretakers shall have all the power and authority now vested by law in the constables of the several cities, boroughs and townships of this Commonwealth to keep the peace in and along the county roads of such county, and to enforce all laws regulating the speed of automobiles and other vehicles thereon, and to enforce all rules or regulations governing the use of such roads, and to make arrests therefor.

Section 2951. Caretakers Not Entitled to Fines or Penalties.—No such caretaker shall be entitled to any portion of any fine or penalty imposed upon any person or persons for any violation of any act of Assembly or rule relating thereto, but all such fines and penalties, when the proceeding is initiated by such caretaker, shall belong to and be paid into the county treasury for the benefit of the county.

Section 2952. Badge of Caretaker.—The board of commissioners shall furnish each of said caretakers, as an evidence of his authority, a badge having impressed thereon the words "Police ..... County Road Caretaker."

Section 2953. Rules for Protection of Road; Penalty for Violation.—(a) For the purpose of preventing un-

reasonable wear and destruction of public roads improved and maintained by the county, the board of commissioners may adopt and prescribe reasonable rules regulating and restricting the use of said roads within the county by any means of locomotion and prescribe pecuniary penalties for the enforcement thereof. All such rules adopted by the board of commissioners shall, before becoming operative, be published once a week for three weeks in two newspapers of general circulation in the county to which the rules apply, and be recorded in the office of the recorder of deeds of said county.

(b) Any resident of the county within which the violation of any rule so adopted shall occur may institute and prosecute to judgment and execution an action of assumpsit, in any court having jurisdiction of such actions and the amounts involved, for the recovery of any penalty for the violation of any rule prescribed by the board of commissioners, of which penalty the plaintiff shall be entitled to one-half and the county shall be entitled to the other half, payable to the county treasurer, who shall add the same to the fund for the improvement of said county roads.

(c) Any person violating any rule so adopted shall, upon summary conviction, be sentenced to pay a fine of not less than five dollars (\$5) or more than one hundred dollars (\$100), payable to the county treasurer, who shall add the same to the fund for the improvement of said county roads. From any judgment obtained for said penalty and from said summary conviction an appeal shall lie as provided by law.

Section 2954. Penalty for Destroying, Et Cetera, Index Boards.—(a) It shall be unlawful for any person to wilfully destroy, remove, injure or deface any sign or index board erected upon or near any public street, road or bridge by the authorities of any county, or erected, with the consent of such authorities, by any club, association or other organized body, for the direction, guidance or safety of travelers. Any and all such signs of wood, metal or other substance, affixed to trees or posts in or upon any roads, properly erected in such manner that they do not interfere with travel, or upon fences, telegraph, telephone, trolley or other poles, with the permission of the owners thereof, or upon private grounds, where consent has been obtained from the owners and tenants thereof, and which are close to roads, shall be within the provisions of this section.

(b) Any person violating the provisions of this section shall, upon summary conviction, be sentenced to pay a fine of not less than ten dollars (\$10) nor more than twenty-five dollars (\$25) with all costs of prosecution, together with the value of such sign so destroyed, re-

moved or defaced. In default of payment of said fine, costs and expenses, such person shall undergo an imprisonment for a period of not less than five (5) nor more than sixty (60) days.

Section 2955. Snow Fences.—(a) The county which is responsible for the maintenance of any road may enter upon private property adjacent to such road and place thereon snow fences, at any point as may be deemed necessary to within a limit of one hundred feet from the right-of-way line of such road, in order to eliminate snow drifting on the traveled portion thereof.

(b) No snow fence authorized under this section shall be placed prior to November first nor shall the same remain in place after April first of the succeeding year, unless the written consent of the owner of the adjacent property is obtained, agreeing to an extension of time for the removal of said snow fence.

(c) If the county responsible for the maintenance of the road shall not be able to enter into an agreement with the owner of adjacent property occupied by such snow fence as to the amount of damages sustained as a result of said fence being placed and removed, the owner may petition the court of the proper county for the appointment of viewers to ascertain the amount of damages incurred in such case. The appointment of viewers and the procedure thereafter shall be governed and be in accordance with this act, as provided for eminent domain proceedings. Such damages, if any, when ascertained, shall be paid by the county responsible for the maintenance of the road, and any funds available to the county for the construction and maintenance of roads under their supervision shall be available for the payment of such damages.

Section 2956. Elimination of Dangerous Curves and Widening of Narrow Roads.—The county may acquire, by purchase or by the right of eminent domain, such property and lands situate along or adjacent to any county road as, in the opinion of the commissioners of such county, may be necessary to eliminate dangerous curves and widen narrow roads, for the better protection and safety to the traveling public.

Upon any such purchase or condemnation, the county commissioners having had such property and lands condemned may, from time to time, cause to be abated or removed any such dangerous curve or curves or widen such narrow road to the extent of the property and land so acquired.

Proceedings for the condemnation of such property and lands shall be as provided in Article XXVI of this act.

**Article XXX****Recreation Places****(a) General**

Section 3001. Acquisition of Land and Buildings for Recreation Places.—(a) The county commissioners may designate and set apart for use as parks, parkways, bridle paths, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers, and as agricultural fairgrounds, any lands or buildings owned by such county and not dedicated or devoted to other public use.

(b) The county commissioners may also acquire lands or buildings for such purposes by gift, purchase or may lease lands or buildings in such county for temporary use for such purposes.

Section 3002. Equipment and Maintenance.—The authority to supervise, build and maintain fairgrounds, parks, parkways, bridle paths, footpaths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers may be vested in any existing body or board, or in a park board, or recreation board, or fair board, as the county commissioners may determine. The county commissioners of the county may equip, operate and maintain the fairgrounds, parks, parkways, bridle paths, foot paths, playgrounds, playfields, gymnasiums, swimming pools, public baths or indoor recreation centers as authorized by this act, and may, for the purpose of carrying out the provisions of this act, employ play leaders, recreation directors, supervisors, superintendents or any other officers or employes, as they deem proper.

Section 3003. Fair, Park and Recreation Boards.—

(a) If the county commissioners shall determine that the power to supervise fairgrounds, parks, parkways, bridle paths, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or recreation centers shall be exercised by a park board or recreation board or fair board, they may establish in said county such fair board, park board or recreation board, which shall possess all the powers and be subject to all the responsibilities of the respective county commissioners. Either such boards, when established, shall consist of not less than five persons.

(b) The members of such boards shall be appointed by the commissioners of such county 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 terms of all the members shall not expire in the same year. 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 3004. Officers of Board.—The members of a fair board, park board or recreation board, established pursuant to this act, shall elect their own chairman and secretary and select all other necessary officers, to serve for a period of one year, and may, with the consent and approval of the county commissioners, employ such persons as may be needed, as authorized by this act. Such boards shall have power to adopt rules and regulations for the conduct of all business within their jurisdiction.

Section 3005. Joint Action.—The county authorized by this act to acquire property for and operate and maintain any fairgrounds, parks, parkways, bridle paths, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers may acquire property for such purposes, and operate and maintain the same jointly with any other county or any city, borough, township or school district.

Section 3006. Indebtedness.—The county commissioners may issue bonds for the purpose of acquiring lands or buildings for fairgrounds, parks, parkways, bridle paths, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers, and for the equipment thereof.

Section 3007. Payment of Expenses; Taxation; Annual Fairs; State Contributions.—(a) All expenses incurred in the operation of such fairgrounds, parks, parkways, bridle paths, foot paths, playgrounds, playfields, gymnasiums, swimming pools, public baths and indoor recreation centers, established as herein provided, shall be payable from the treasury of such county. The county commissioners 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 county, for the purpose of maintaining and operating such fairgrounds, parks, parkways, bridle paths, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools and recreation centers.

(b) The county commissioners or the fair board, if there be one, may provide for and hold an annual fair or agricultural exhibition on the fairgrounds acquired or maintained as aforesaid, and may accept aid or contributions from the Commonwealth under the act of Assembly for the payment of premiums at any such fair or exhibition.

#### (b) Parks

Section 3025. County May Provide Parks.—It shall be lawful for and the right and power is hereby con-

ferred upon the county to enter upon, take, use and appropriate, by the right of eminent domain, and to acquire by purchase, lease, gift, devise or otherwise, private property, for the purpose of establishing, making, enlarging, extending, operating and maintaining public parks within the limits of such county, whenever the county commissioners thereof shall, by resolution, determine thereon.

Section 3026. Eminent Domain Proceedings.—In all cases wherein the county shall enter upon, take, use and appropriate private property for the aforesaid purposes, by resolution of the county commissioners, if the compensation and damages arising therefrom cannot be agreed upon by the owners thereof in such county, such compensation and damages shall be considered ascertained, determined, awarded and paid in the manner provided in this act for such proceedings.

Section 3027. Title Acquired in Eminent Domain Proceedings.—In every case of the taking of property by eminent domain hereunder, the county shall acquire the entire title, whether in fee or otherwise, held by the owner or owners of said property, or of any interest therein.

Section 3028. Improvements in Parks.—The county commissioners shall have the power to govern, manage, operate, lay out, plant and ornament the said public parks, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, roadways, lakes, golf courses, playgrounds and other improvements therein, and to make rules and regulations for the conduct of the patrons thereof, and to repress all disorders therein, under the provisions hereinafter contained.

Section 3029. Park Buildings.—The county commissioners shall have exclusive power to lease all houses, cottages and buildings within the park limits which may be let without prejudice to the interest and purposes of the park, and to collect the rents.

Section 3030. Use of Receipts.—All rents, license charges and fees, all fines, proceeds of sales, except of lands purchased, and profits of whatsoever kind, to be collected, received, or however realized, shall be paid into the county treasury as a fund to be exclusively appropriated by the county commissioners for park purposes: Provided, That moneys or property given or bequeathed to the county commissioners upon specified trusts shall be received and receipted for by the county treasurer and held and applied according to the trusts specified.

Section 3031. Penalties.—Any person who shall violate any of said rules and regulations which shall be ordained by the county commissioners for the government of said public parks, not inconsistent with this act or the

laws and Constitutions of this State and the United States, the power to ordain which rules and regulations is hereby expressly given to said commissioners, shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay such fine as may be prescribed by the county commissioners, to be recovered before any alderman or justice of the peace of said county, which fines shall be paid into the county treasury.

Section 3032. Damages; Forfeiture of Leases.—Any person violating any of said rules and regulations shall be further liable to the full extent of any damage by him or her committed, in trespass or other action, and any tenant or licensed party who shall violate the said rules and regulations or any of them, or consent to or permit the same to be violated on his or her or their premises, shall forfeit his or her or their lease or license and shall be liable to be forthwith removed by a vote of the county commissioners, and every lease and license shall contain a clause making it cause of forfeiture for the lessee or party licensed to violate or permit or suffer any violation of said rules and regulations or any of them.

Section 3033. Employes; Police.—For the purpose of performing all necessary duties relating to the establishing, making, enlarging, extending and maintaining public parks and for enforcing the rules and regulations ordained by the county commissioners for the conduct of the patrons thereof, the said county commissioners are hereby authorized to employ or appoint and equip proper persons to do all necessary and proper work connected therewith, including police duty, the compensation of all persons so employed to be fixed by the salary board of the county.

Section 3034. Duty of Police.—It shall be the duty of the police appointed to duty in said public parks, without warrant, forthwith to arrest any offender against the rules and regulations ordained by the county commissioners that they may detect in the commission of such offense, and to take the person so arrested forthwith before a magistrate, alderman or justice of the peace having competent jurisdiction.

Section 3035. Indebtedness; Taxation.—The county commissioners may issue bonds for the purpose of acquiring lands or buildings for parks, playgrounds, playfields, gymnasiums, swimming pools, public baths or other outdoor or indoor recreation centers, and for the enlargement, extension and equipment thereof, and may annually appropriate and cause to be raised by taxation such taxes, not to exceed one mill on the dollar of the assessed valuation of taxable property in the county, for the purpose of establishing, making, enlarging, extending and maintaining same.

## (c) Fair Grounds

Section 3050. County May Take Title to Fair Grounds.—Where the owner or owners of any real estate, with or without improvements thereon, adapted to the use or purpose of public agriculture fairs or exhibits are willing to convey said real estate to the county wherein located, to be held in trust for citizens and inhabitants of the county, the county commissioners shall have the right to take title thereto and hold such real estate in trust for the benefit of the citizens and inhabitants of the county.

Section 3051. Contributions Permitted.—The county commissioners of the county shall have the power to receive and accept contributions in building or materials for additional improvements on the real estate conveyed and held in trust, as provided in section three thousand fifty.

Section 3052. Leases.—The county commissioners may lease said real estate to any incorporated agriculture association willing and financially able to manage said premises, on condition that said premises will be used annually for agriculture fairs and exhibitions each year without any liability on the part of the county and with no expense to the county. Upon failure of any lessee to comply with the terms of any lease, the county shall re-take possession of the real estate.

Section 3053. Sale of Unused Grounds.—If, for a period of five years, no public use of said real estate as contemplated by the grant to the county is made, the county commissioners shall have power to sell such real estate on petition to the court of common pleas, as provided by law, for the sale of county property.

## Article XXXI

## Fire Marshals

Section 3101. Appointments; Qualifications; Salaries; Duties of Assistant Fire Marshals.—The county commissioners shall, on the fourth Monday of March, in the year one thousand nine hundred forty-three, and every fourth year thereafter, appoint a citizen of such county to serve as fire marshal thereof for the term of four years or until his successor shall be appointed, and two citizens of said county to serve as assistant fire marshals thereof for terms of four years or until their successors shall be appointed. In making such appointments, the county commissioner representing the minority political party in the county shall name one of the assistant fire marshals, and as vacancies occur the commissioner representing the minority party shall name the successor to any assistant fire marshal selected by a commissioner representing the minority party. No person shall be ap-

pointed fire marshal unless he shall have had ten years active service as a member of a fire department, and no person shall be appointed an assistant fire marshal unless he has had five years experience as an active member of a fire department. The salary of the fire marshal and the assistant fire marshals appointed under the authority of this act shall be fixed by the salary board and shall be in lieu of all other salary or compensation from any source whatsoever. The assistant fire marshals appointed as aforesaid shall have the same powers and shall perform the same duties as those prescribed for the fire marshal.

The salary herein authorized shall be provided for by the county commissioners and paid semi-monthly out of the county treasury.

Section 3102. Offices and Supplies.—The county commissioners shall provide the fire marshal and his assistants with suitable offices, and shall pay or cause to be paid out of the treasury all the costs of maintenance thereof, including clerk and stenographic hire, and all necessary supplies, stationery, postage and other incidental expenses.

Section 3103. Oath of Office and Bond.—Before entering on the duties of his office, the fire marshal and his assistants shall take an oath of office and furnish bond as is now provided by law in the case of other county officers. The bond of the fire marshal shall be in the sum of ten thousand dollars (\$10,000) and the bonds of the assistant fire marshals shall be in the sum of five thousand dollars (\$5000).

Section 3104. Attendance at Fires; Duties and Powers; Aid and Assistance; Investigations.—The fire marshal or one of his assistants shall attend, if practicable, all fires occurring in the county, and shall endeavor to save and protect from the fire all property in danger therefrom and to protect such property from loss by pillage and theft and from injury and destruction in any manner, and he shall have power to take any measures he may deem proper and expedient for that purpose, and he shall also have power to call upon any constable, policeman or citizen of any city, ward, borough or township in the county to aid and assist him in protecting and saving property, as aforesaid, and to aid and assist in carrying into execution any measures he may deem proper and expedient, as aforesaid, and he shall investigate and, if possible, ascertain the origin and cause of every fire occurring in the county, the nature and value of the property injured or destroyed thereby, whether said property was insured or not, and if insured, the amount of such insurance, by whom effected, for whose benefit and by whom the risk was taken, the names and places of residence of the owner or owners and of all

parties interested in the property injured or destroyed and the nature and amount of such interest.

Section 3105. Arrests and Commitment or Bail.—If, in any investigation, it shall appear to the fire marshal or one of his assistants, from the evidence before him, that any building or other property in the county has been wilfully set on fire by any person or persons, he shall, in such case, have the same power to issue a warrant, directed to any constable of any ward, borough or township of the county, for the arrest of such person or persons and their accessories and to commit them for trial or take bail for their appearance, as a justice of the peace of the county would have upon information made before him setting forth the same facts as appear in evidence before the marshal, and in such case, the said fire marshal shall proceed in the same manner as a justice of the peace is required by law to do and with the same powers as he would have after an information duly made before him.

Section 3106. Administration of Oaths; False Testimony; Subpoena and Attachment; Refusal to Testify or Produce Documents.—The fire marshal or either of his assistants, in order to enable him to discharge the duties required of him in the foregoing section, shall have power to administer oaths and affirmations in the discharge of the duties of his office, and a wilful violation of any oath or affirmation so administered by him, or wilfully and knowingly giving false testimony before him, shall be perjury; and he shall have power to compel the attendance of any person whom he may desire to examine in relation to any fire by subpoena and attachment; and if any person shall refuse to be sworn or affirmed or to testify in relation to any of the matters in regard to which it is the duty of the fire marshal to make investigation, or shall refuse to produce before the fire marshal any books, papers or documents in their possession which the said marshal may deem necessary to enable him to ascertain the truth in any investigation then being made by him, the said marshal shall have power to commit such person to the county jail until such person shall be willing to and shall be sworn or affirmed or testify or produce the books, papers and documents, as the case may be, and no longer: Provided, That no testimony taken under oath or affirmation before the fire marshal, as aforesaid, shall be used in evidence against the party giving it in any civil or criminal proceedings whatsoever, except in prosecutions against such party for perjury.

Section 3107. Disobedience of Orders; Refusal to Execute Warrant; Hindering or Obstructing Marshal.—Any constable, policeman, watchman or citizen who shall refuse or neglect to obey the orders or directions of the

fire marshal when called upon by him to aid or assist in saving or protecting any property at any fire, or any constable who shall refuse or neglect to execute any warrant of the fire marshal directed to him for the arrest of any person for the crime of arson, or any person or persons who shall wilfully hinder or obstruct or attempt to hinder or obstruct the fire marshal in the performance of his duties, shall be guilty of a misdemeanor, and, upon conviction thereof in the court of quarter session of the county, shall be punished by a fine not exceeding fifty dollars (\$50) and imprisonment in the county jail for a term not exceeding one (1) year.

Section 3108. Examination of Buildings and Structures; Notice to Alter, Remove or Amend.—It shall be the duty of the marshal or one of his assistants to examine the dwelling houses and any other buildings and structures in the county for the purpose of ascertaining whether, by reason of age or dilapidated condition or accumulation of waste, rubbish, debris, explosive or inflammable substance, or existence of any other fire hazard, such buildings or structures are especially liable to fire, and upon finding any of them defective or dangerous, said marshal or his assistants shall direct the owner or occupants, either by printed or written notice, to alter, remove or amend the same, in such manner or within such reasonable time as they may deem necessary, and in case of neglect or refusal to do so, the party offending shall forfeit and pay, upon conviction thereof before any justice of the peace, alderman or police magistrate of the county, any sum not exceeding twenty-five dollars (\$25), for the use of the county, to be collected as fines and forfeitures are collected by law.

Section 3109. Expense of Removal, Alteration or Amendment; Combustible or Explosive Matter.—The expense of any removal, alteration or amendment, as aforesaid, shall be paid in the first instance by the occupant, but shall be chargeable against the owner of such dwelling house or other building and shall be deducted from the rent of the same, unless such expenses be rendered necessary by the act or default of such occupant or unless there is a special agreement to the contrary between the parties, and said marshal or his assistants or either of them are hereby empowered at any and all times to enter into and examine all buildings, structures or places where any combustible or explosive matter may be lodged and give such directions, in writing, in the premises as may be deemed necessary relative to the removal thereof, and in case of neglect or refusal on the part of the possessor of such combustible materials or any of them to remove or secure the same within the time and manner directed, the party offending shall forfeit and pay, in addition to any penalty hereinbefore

imposed, the sum of twenty-five dollars (\$25), to be collected as heretofore provided for in this act.

Section 3110. Records and Reports.—The fire marshal shall keep a record of all fires occurring in the county, which record shall show the results of his investigation in relation to each fire and shall be open to the public for examination, and he shall also keep on file in his office all depositions and notes of testimony taken by him in the discharge of his duties, which any person desirous of so doing shall be permitted to examine and take copies of upon payment by them to the said marshal of the fee of fifty cents (50c) for such examination, and he shall also, on the fourth Monday of March in each year, make report, in writing, to the county commissioners of his activities as fire marshal during the year preceding his report.

## Article XXXII

### Actions By and Against County

Section 3201. Commissioners to Bring and Defend Suits.—All suits by the county shall be brought and conducted by the board of commissioners. In all suits against the county, process shall be served upon and defense made by the board of commissioners. Service shall be made upon the county in the manner prescribed by the Pennsylvania Rules of Civil Procedure for so long as the pertinent provisions of this section remain suspended by said Rules.

Section 3202. Form of Action to Recover Claims; Jurisdiction of Justices of the Peace.—The county may proceed for the recovery of municipal claims by lien or by action of assumpsit. Jurisdiction is conferred upon justices of the peace to entertain such actions of assumpsit to the amount of three hundred dollars (\$300).

Section 3203. Competency of Witnesses and Jurors.—No person shall be excluded from being a witness or juror in any suit, prosecution or proceeding in which the county is a party or is interested by reason of such person being or having been an officer, rated citizen or inhabitant in the county, or owning assessed or taxable property, or being liable to the assessment or payment of any tax therein.

Section 3204. Execution Against County.—(a) If judgment shall be obtained against the county in any action or proceeding, the party entitled to the benefit of such judgment may have execution thereof as follows and not otherwise. The court of common pleas of the county against which judgment shall be obtained or the court to which a judgment may have been removed by transcript from a justice of the peace or alderman, on

application of the party entitled to the benefit of such judgment, may direct the issue of a writ thereon, commanding the commissioners of the county to cause the amount of the judgment, with the interest and costs, to be paid to the party entitled, out of any moneys of the said county which are not appropriated or pledged for any specific purpose and which are not required to meet the current operating expenses of the county during the then fiscal year. If there be no such moneys, then out of the first moneys coming into the hands of its treasurer which have not been appropriated or pledged to any specific purpose and are not required to meet the current operating expenses of the county during the fiscal year in which such writ issued. If such judgment shall have been recovered on an obligation secured by a sinking fund, payment thereof may be directed out of any moneys in the sinking fund.

(b) If such judgment is not paid by the commissioners as directed by such writ, they shall, within fifteen days after service thereof, make answer showing the reasons for not having made payment as commanded.

(c) If it appear from said answer that the county does not have moneys not appropriated or pledged for specific purposes and not required for current operating expenses with which to pay said judgment and that it will not, during the then fiscal year, have sufficient funds not appropriated or pledged for specific purposes and not required to meet current operating expenses to enable the payment of such judgment or judgments, the court, after hearing, shall direct the levy of a tax, to be levied and collected during the succeeding fiscal year or years, sufficient to pay such judgment or judgments.

(d) In directing the levy of such tax, the court shall take into consideration the number of judgments against the county and the writs issued, and shall have power to decide during how many years the tax shall be levied, but it shall not direct the levy of a tax for any one year in excess of one-half of one per centum of the assessed valuation of the taxable property of the county.

(e) The taxes thus directed to be levied shall be levied by the commissioners at the same time the next levy for general county purposes is made, and shall be levied and collected as other taxes are by law levied and collected, but shall be listed in the duplicate as a separate tax and shall be kept distinct from all other of the county's funds, and applied in payment of the judgment or judgments for which collection is directed, as from time to time received, but one levy may be made for the satisfaction of more than one judgment and the fund shall be applied to the satisfaction of the judgments in the order in which the writs were issued.

(f) The court shall have \* power to enforce, by attachment or otherwise, all orders and decrees entered in pursuance of the powers hereby granted.

(g) All judgments and unpaid parts thereof shall bear interest at the rate of six per centum per annum, but not compounded.

Section 3205. Appeals in Behalf of County by Taxpayers.—Subject to the proviso hereinafter made, any ten or more taxpayers of the county may, in behalf of such county, appeal from the report of its county controller to the court of common pleas, or prosecute any suit or action in behalf of said county, or defend such county in any suit, process or action that may be brought against such county, by appeals from county controller's report or otherwise. If no appeal is entered by county officials, the appeal by such taxpayers shall be entered within ninety days after the filing of such report in the court of common pleas. All of the appellants shall enter into recognizance with two sufficient sureties, conditioned that the appellants shall prosecute said appeal with effect and pay all costs that may accrue thereon in case they fail to obtain a final decision more favorable to the county than the report from which such appeal is taken. In all such appeals, the court of common pleas may direct an issue to be tried by a jury, upon whose verdict final judgment shall be entered, reserving the right of all parties to appeal to the Supreme Court or Superior Court, as provided in other appeals. Before said taxpayers shall be permitted to come into court and prosecute any suit or action or defend the county in any suit, process or action, they shall present to the court a petition signed by them, accompanied by an affidavit of one of their number, that they believe injustice will be done the county unless they are permitted to defend. Said taxpayers shall, whenever the court shall deem it necessary, file in said court of common pleas a bond, with one or more sufficient sureties to be approved by said court, to indemnify and save harmless said county from all costs that may occur in the suit, process or action subsequent to filing the petition.

Intervention by taxpayers to prosecute any action or suit on behalf of the county, including an appeal already filed from the controller's report, or to defend the county, shall be governed by the Pennsylvania Rules of Civil Procedure for so long as the pertinent provisions of this section remain suspended by said Rules.

Section 3206. Certain Procedure in Equity Not to Apply When County is Libellant, Et Cetera.—The first section of the act of May sixth, one thousand eight hundred and forty-four (Pamphlet Laws 564), entitled "An act further to regulate proceedings in courts of justice,

\* "the" deleted from original.

and for \* other purposes," shall not apply to any bill or proceeding in equity wherein the county is libellant, plaintiff or complainant, nor shall the county be required to give security on appeal to the Supreme Court or Superior Court in any proceeding in equity. In all such cases, it shall be the duty of the court in which the same may be pending, as far as practicable, to expedite the hearing and final determination thereof by such rules, order or orders, not inconsistent with the laws of this Commonwealth, as justice and equity may require.

Section 3207. Submission of Disputes to Arbitration. —It shall be lawful to include in any contract executed by or on behalf of the county a provision that any matter in dispute arising under the said contract shall be submitted to arbitration in accordance with the arbitration act of June sixteenth, one thousand eight hundred and thirty-six (Pamphlet Laws 715), or such sections thereof as may be set forth in such contract.

The county shall have the right to agree to submit to arbitration any matter in dispute under any contract to which the said county shall be a party, in accordance with the act of June sixteenth, one thousand eight hundred and thirty-six (Pamphlet Laws 715), entitled "An act relating to Reference and Arbitration," or any section thereof, as may be agreed upon, whether or not the contract shall contain a provision providing for such reference.

### Article XXXIII

#### Acts of Assembly Repealed

Section 3301. The following acts and parts of acts and all amendments thereof are hereby repealed to the extent hereinafter specified:

Section 78 of the act, approved the fifteenth day of April, one thousand eight hundred thirty-four (Pamphlet Laws 537), entitled "An act relating to counties and townships and county and township officers," as to counties of the second class.

The act, approved the first day of April, one thousand eight hundred thirty-five (Pamphlet Laws 101), entitled "An act relative to the bonds of County Treasurers in the Auditor General's Office," as to counties of the second class.

Sections 3 and 10 of the act, approved the twenty-seventh day of May, one thousand eight hundred forty-one (Pamphlet Laws 400), entitled "An act relating to the Election of County Treasurers and for other purposes," as to counties of the second class.

Sections 1, 3 and 7 of the act, approved the third day of May, one thousand eight hundred fifty (Pamphlet Laws 654), entitled "An act providing for the election of district attorneys," as to counties of the second class.

\* "the" deleted from original.

Sections 17 and 18 of the act, approved the thirty-first day of March, one thousand eight hundred sixty (Pamphlet Laws 382), entitled "An act to Consolidate, Revise and Amend the Penal Laws of this Commonwealth," as to counties of the second class.

The act, approved the twelfth day of March, one thousand eight hundred sixty-six (Pamphlet Laws 85), entitled "A further supplement to an act, entitled 'An Act to consolidate, revise and amend the penal laws of this Commonwealth' so far as relates to the duties of district attorneys," as to counties of the second class.

Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 15 and 16 of the act, approved the thirty-first day of March, one thousand eight hundred seventy-six (Pamphlet Laws 13), entitled "An act to carry into effect section five, of article \*fourteenth, of the constitution, relative to the salaries of county officers and the payment of fees received by them into the state or county treasury, in counties containing over one hundred and fifty thousand inhabitants," as to counties of the second class.

The act, approved the eighth day of June, one thousand eight hundred eighty-one (Pamphlet Laws 81), entitled "An act to authorize the courts of common pleas of this commonwealth, on sale of real estate by surety for the sheriff or coroner, on application by petition, to release the lien of recognizance on said real estate," as to counties of the second class.

The act, approved the twenty-seventh day of June, one thousand eight hundred eighty-three (Pamphlet Laws 163), entitled "An act providing for the satisfaction and discharge sheriff's recognizance," as to counties of the second class.

The act, approved the nineteenth day of April, one thousand eight hundred eighty-nine (Pamphlet Laws 38), entitled "An act providing for the appointment of librarians for law libraries connected with the courts of this Commonwealth," as to counties of the second class.

The act, approved the thirteenth day of May, one thousand eight hundred eighty-nine (Pamphlet Laws 200), entitled "An act regulating the payment of traveling expenses of directors of the poor and county commissioners within this Commonwealth," as to counties of the second class.

The act, approved the twelfth day of June, one thousand eight hundred ninety-three (Pamphlet Laws 457), entitled "An act to provide for the erection, maintenance and regulation of public morgues in the several counties of this Commonwealth, for the care and disposal of bodies removed thereto, and providing for the payment of certain expenses of the same by the proper county or district or by the estate of the deceased person,

\* "fourteen" in original.

and providing for the disposal of the personal effects of unclaimed dead," as to counties of the second class.

The act, approved the eighteenth day of June, one thousand eight hundred ninety-five (Pamphlet Laws 209), entitled "An act regulating the printing and publication of notices and advertisements authorized by the county commissioners of the counties of this Commonwealth containing a population of five hundred thousand and not exceeding one million, as shown by the last United States census, providing how newspapers shall be designated in which such publications shall be made, and repealing an act, entitled 'An act authorizing the county commissioners of Allegheny county to select four morning newspapers for official county advertising,' approved the second day of April, Anno Domini one thousand eight hundred and seventy-three, and also repealing the tenth section of an act, entitled 'A supplement to an act approved the first day of May, Anno Domini one thousand eight hundred and sixty-one, entitled "An act relating to Allegheny county," approved the eighth day of April, Anno Domini one thousand eight hundred and sixty-two'," as to counties of the second class.

The act, approved the fourteenth day of April, one thousand eight hundred ninety-seven (Pamphlet Laws 22), entitled "An act making it the duty of the various county officials to furnish, on demand therefor, information from their respective offices to the head of any department of the State government, and providing a compensation therefor," as to counties of the second class.

The act, approved the fifteenth day of July, one thousand eight hundred ninety-seven (Pamphlet Laws 285), entitled "An act authorizing the commissioners of the counties of the Commonwealth to transfer and cover into the general fund of the several counties, any money now placed to the credit of any city, borough or township, upon any duplicate for taxes where the same has remained uncalled for during a period of ten years: Provided, The right to the same is not in litigation or a matter of dispute," as to counties of the second class.

The act, approved the eighteenth day of April, one thousand eight hundred ninety-nine (Pamphlet Laws 56), entitled "An act authorizing the county commissioners of the several counties in this Commonwealth to appoint a clerk, fix his compensation, and prescribe the term and duties of the clerk, except in counties where the clerk to the county commissioners is elected by the people," as to counties of the second class.

The act, approved the twenty-first day of May, one thousand nine hundred one (Pamphlet Laws 271), entitled "An act to provide for the election of recorders of deeds and registers of wills in counties having a popula-

tion of over one hundred and fifty thousand," as to counties of the second class.

The act, approved the fourteenth day of March, one thousand nine hundred five (Pamphlet Laws 37), entitled "An act to fix the salaries of district attorneys, and providing for the appointment of assistant district attorneys, in the several counties of this Commonwealth having over eight hundred thousand inhabitants; prescribing the powers and duties, and fixing the salaries of the said assistant district attorneys," as to counties of the second class.

Section 1 of the act, approved the sixteenth day of April, one thousand nine hundred seven (Pamphlet Laws 92), entitled "An act defining the duty of coroners, police and health authorities, in this Commonwealth, in reference to the disposition of bodies of persons whose cause of death may be the subject of inquiry by the coroner," as reenacted and amended by the act, approved the twelfth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 710), insofar as it is inconsistent with the provisions of this act, in counties of the second class.

The act, approved the twenty-second day of April, one thousand nine hundred nine (Pamphlet Laws 104), entitled "An act providing for the support and maintenance of law libraries in the counties of this Commonwealth," as to counties of the second class.

The act, approved the twenty-seventh day of April, one thousand nine hundred nine (Pamphlet Laws 242), entitled "An act providing for the payment to the treasurer of any County Soldiers' Memorial Association, within the Commonwealth of Pennsylvania, incorporated under the laws of the said Commonwealth, of any moneys unexpended, which were appropriated by the county commissioners of any county in the Commonwealth, under the act of April third, one thousand nine hundred and three, to be used solely and exclusively for the erection or completion of any monument or memorial to the memory of the soldiers and sailors of American wars," as to counties of the second class.

The act, approved the first day of June, one thousand nine hundred eleven (Pamphlet Laws 556), entitled "An act to fix the salary of the coroner of any county of this Commonwealth having a population of one million or over," as to counties of the second class.

The act, approved the eighth day of June, one thousand nine hundred eleven (Pamphlet Laws 717), entitled "An act relating to coroners and the holding of post-mortems, in the several counties of the Commonwealth," as to counties of the second class.

The act, approved the twenty-seventh day of March, one thousand nine hundred thirteen (Pamphlet Laws

11), entitled "An act fixing the salary of controllers, in counties having over one hundred thousand inhabitants, where no provision for such salary has heretofore been made," as to counties of the second class.

The act, approved the fourteenth day of May, one thousand nine hundred thirteen (Pamphlet Laws 204), entitled "An act authorizing the board of county commissioners of the several counties of the State to appropriate money for cooperative agricultural extension work, for the purpose of improving and developing the agricultural resources of the proper counties," as to counties of the second class.

The act, approved the seventeenth day of May, one thousand nine hundred seventeen (Pamphlet Laws 237), entitled "An act regulating the practice and procedure of the sheriff or deputy sheriff, under writs of inquisition, condemnation, inquiry of damages, lunacy, or habitual drunkard proceedings, partition proceedings, or by virtue of any other writ or process, issued by the courts of this Commonwealth, wherein the existing laws require the sheriff to be present in person," as to counties of the second class.

The act, approved the twenty-fourth day of May, one thousand nine hundred seventeen (Pamphlet Laws 297), entitled "An act authorizing the establishment of contagious disease hospitals in the several counties of the Commonwealth, to be constructed and maintained out of county funds," as to counties of the second class.

Sections 2 and 3 of the act, approved the seventh day of June, one thousand nine hundred seventeen (Pamphlet Laws 570), entitled "An act fixing the salaries and providing for the expenses of county commissioners in the counties of this Commonwealth," absolutely.

The act, approved the eighth day of May, one thousand nine hundred nineteen (Pamphlet Laws 163), entitled "An act authorizing county commissioners to appoint county engineers, and to fix their compensation, and prescribing the duties of such engineers," as to counties of the second class.

The act, approved the thirteenth day of April, one thousand nine hundred twenty-one (Pamphlet Laws 132), entitled "An act authorizing county commissioners to appropriate moneys for the maintenance of duly incorporated organizations for the prevention of cruelty to animals," as to counties of the second class.

The act, approved the nineteenth day of May, one thousand nine hundred twenty-three (Pamphlet Laws 283), entitled "An act providing a means whereby the individual justice of the peace may better inform himself as to the law, changes in the law, and decisions of the courts on the law, of this Commonwealth," as to counties of the second class.

The act, approved the twenty-first day of May, one thousand nine hundred twenty-three (Pamphlet Laws 295), entitled "An act authorizing and empowering counties of the second class in this Commonwealth to acquire by lease, purchase, or condemnation proceedings any land within the county for the purpose of establishing and maintaining airdromes or aviation landing fields; providing for the procedure in case of condemnation, and the extent of title acquired; authorizing the lease by the county of portions of said land to individuals or corporations upon such terms as may be fixed, and the lease thereof to the Government of the United States upon nominal rental; authorizing and empowering the county to use land now owned by it for such purposes; and authorizing joint operation by said county and any city within the county of airdromes or aviation landing fields, where such city is authorized to establish and maintain the same," absolutely.

The act, approved the twenty-ninth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 973), entitled "An act providing for the payment by counties of expenses incurred by the district attorney, and making such expenses a part of the costs of the case where the defendant is convicted," as to counties of the second class.

The act, approved the ninth day of April, one thousand nine hundred twenty-five (Pamphlet Laws 222), entitled "An act providing for the payment by counties and poor districts of the salaries of officers where pending the settlement of a dispute the salary paid to such officer was less than the amount to which he was legally entitled," as to counties of the second class.

The act, approved the twelfth day of May, one thousand nine hundred twenty-five (Pamphlet Laws 596), entitled "An act providing for the alteration of the boundaries of counties in certain cases for the adjustment of the indebtedness thereof; providing the effect thereof," as to counties of the second class.

The act, approved the thirteenth day of May, one thousand nine hundred twenty-five (Pamphlet Laws 676), entitled, as amended, "An act providing for the burial of certain persons who are, have been, or shall be, soldiers, sailors, marines, or members of the enlisted nurse corps, designated as "deceased service men" defining the term "deceased service men" authorizing county commissioners to provide markers and burial plots for such deceased service men at the expense of such county in which they shall die or have a legal residence at the time of their death; and providing for the burial of widows of soldiers, sailors, or marines," as to counties of the second class.

The act, approved the second day of May, one thou-

sand nine hundred twenty-nine (Pamphlet Laws 1278), entitled "An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto," as to counties of the second class.

The act, approved the fifteenth day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1767), entitled "An act validating the action of the salary board of any county of this Commonwealth in providing additional assistants to the district attorneys in the respective counties, when such appointments become necessary, or on account of sickness of assistant district attorneys, or on account of increased business or unusual conditions or circumstances, provided the salary for such appointees did not exceed the minimum salary provided for assistant district attorneys in the respective counties," as to counties of the second class.

The act, approved the sixteenth day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1767), entitled "An act to fix the salaries of certain county officers in counties of the second class," absolutely.

The act, approved the twenty-third day of June, one thousand nine hundred thirty-one (Pamphlet Laws 929), entitled "An act fixing the qualifications of deputy sheriffs in this Commonwealth," as to counties of the second class.

The act, approved the twenty-third day of June, one thousand nine hundred thirty-one (Pamphlet Laws 1199), entitled "An act authorizing the boards of prison inspectors, in counties of the second class of this Commonwealth, to appoint jail chaplains, and directing the salary boards of such counties to fix the salaries and compensation of such chaplains," absolutely.

The act, approved the seventh day of April, one thousand nine hundred thirty-three (Pamphlet Laws 29), entitled "An act requiring the board of county commissioners of counties of the second class, on approval of the president judge of the court of common pleas of said counties, to fix the compensation of fire marshals; and to require the board of county commissioners of counties of the second class, subject to the approval of the common pleas court, to provide for the retirement of such fire marshals on annual pensions after twenty years of service, such compensation and pension to be payable by the county," absolutely.

The act, approved the twenty-third day of May, one thousand nine hundred thirty-three (Pamphlet Laws 962), entitled "A supplement to the act, approved the third day of April, one thousand nine hundred and three (Pamphlet Laws, one hundred thirty-seven) entitled 'An act regulating the confinement of children, under the age of sixteen years, awaiting trial'; providing for

the management of houses of detention for juveniles in counties of the second class; imposing expense in connection therewith on the county; and permitting and authorizing the county commissioners thereof to appropriate money or issue bonds for the purchase of lands or erecting, constructing and equipping of buildings for such purpose," absolutely.

The act, approved the twenty-fifth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 1041), entitled "An act to safeguard human health and life in counties of the second class by providing for the licensing and regulation of persons, municipalities, and entities engaged in the transportation of garbage, and in the disposal of garbage through the construction, keeping, maintenance or conduct of garbage disposal plants; conferring powers and imposing duties on the county commissioners of such counties, and otherwise providing for the administration of the act; and imposing penalties," absolutely.

The act, approved the twenty-second day of December, one thousand nine hundred thirty-three \*—one thousand nine hundred thirty-four (Pamphlet Laws 108), entitled "An act reducing to five days the period during which municipal subdivisions of the Commonwealth are required to advertise notice of proposed awards of contracts for articles to be used on projects financed by the Federal Civil Works Administration," as to counties of the second class.

The act, approved the twelfth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 709), entitled "An act authorizing and empowering county commissioners of this Commonwealth of the counties of the second class, within this Commonwealth, to destroy certain public records," absolutely.

The act, approved the sixteenth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 1047), entitled "An act to enable county commissioners in counties of the second class to issue, sell, and dispose of bonds to provide funds to acquire lands or buildings or to erect buildings or construct or make any improvements that may be deemed necessary by any corporation and body politic having the management and control of a work house and inebriate asylum," absolutely.

The act, approved the second day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1206), entitled "An act relating to memorial halls in counties of the second class, erected in memory of the soldiers, sailors and marines who served in the Civil War; and providing for the use, upkeep, and management and control of such halls," absolutely.

The act, approved the fourth day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1595),

\*—"one thousand nine hundred thirty-four" omitted in original.

entitled "An act relating to peace officers; providing for the qualifications and appointments of deputy sheriffs; regulating the manner of their selection and compensation; regulating the source of compensation for other peace officers; declaring void certain contracts inconsistent with the provisions hereof; providing penalties; and repealing inconsistent acts," as to counties of the second class.

The act, approved the first day of July, one thousand nine hundred thirty-seven (Pamphlet Laws 2612), entitled "An act authorizing county commissioners of any county to hold in trust for the inhabitants and citizens of the county, any real estate and property appropriate for agriculture fairs or exhibits; and to lease the same, without expense or liability to the county, to any incorporated agriculture association to operate and conduct an annual fair within the county," as to counties of the second class.

The act, approved the first day of July, one thousand nine hundred thirty-seven (Pamphlet Laws 2615), entitled "An act authorizing counties of the second class to provide for the issue and sale, during any fiscal year, of revenue bills which shall be negotiable and useable for the payment of taxes due for said year," absolutely.

The act, approved the first day of July, one thousand nine hundred thirty-seven (Pamphlet Laws 2618), entitled "An act authorizing any county of the second class and any city in any such county in which the county seat is within the limits of such city, to agree upon the joint management and control of any or all city hospitals and institutions and any or all county hospitals and institutions within the county; and providing for the appointment of a board of managers and for professional staffs and employes, and for the apportionment of costs and expenses," absolutely.

The act, approved the twenty-fifth day of May, one thousand nine hundred thirty-nine (Pamphlet Laws 205), entitled "An act authorizing counties of the second class to acquire property and erect thereon maintenance warehouses for roads, highways, bridges and tunnels, by purchase or the exercise of the right of eminent domain; providing for the acquiring of fee simple title thereto, and the issuance of bonds therefor," absolutely.

The act, approved the fifteenth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 359), entitled "An act relating to recognizances and official bonds of present and future sheriffs and coroners and to their sureties thereon; imposing the expense of corporate suretyships on such obligations upon the several counties and various duties upon the courts of common pleas and county officers thereof; authorizing the substitution of approved surety companies for individual

or corporate sureties upon such obligations and the release of any surety upon any such recognizance by such court upon certain conditions; dispensing with sureties on such recognizances but providing for the acknowledgment, recording and indexing of same as liens on certain real estate; regulating such liens and releases therefrom; providing for refunds to sheriffs and coroners of certain premiums paid to sureties on their official bonds and recognizances; and repealing inconsistent laws, except as to existing claims or pending suits thereunder, subject to certain limitations," as to counties of the second class.

The act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 649), entitled "An act authorizing counties to convey or lease property, needed or convenient as a site for a county courthouse, to the General State Authority; to acquire additional property for such purposes; and to contract with and lease property from said Authority," as to counties of the second class.

The act, approved the twenty-eighth day of July, one thousand nine hundred forty-one (Pamphlet Laws 519), entitled "An act relating to the bonds to be given by county officers, their deputies, clerks and assistants in counties of the second class, the amount and conditions thereof, the sureties for such bonds, the payment of the premiums therefor, and the recording and custody thereof," absolutely.

The act, approved the twenty-first day of May, one thousand nine hundred forty-three (Pamphlet Laws 563), entitled "An act authorizing counties of the second class to enter into contracts with any city within the county for the hospitalization of persons suffering from infectious diseases; and to make appropriations therefor," absolutely.

The act, approved the twenty-eighth day of May, one thousand nine hundred forty-three (Pamphlet Laws 793), entitled "An act authorizing counties of the second class to regulate the production of smoke from chimneys, smokestacks or other source, including provisions for the payment of inspection and certificates of compliance fees incident thereto; authorizing the expenditure of money for the employment of persons, and the acquisition of property for \*effectuating such regulations; and providing penalties for the violation thereof," absolutely.

The act, approved the third day of June, one thousand nine hundred forty-three (Pamphlet Laws 821), entitled "An act authorizing the county commissioners in each county of the second class to appoint a fire marshal and

\* "affectuating" in original.

two assistant fire marshals, providing for the term of office and compensation of the persons so appointed, and prescribing their powers and duties; imposing certain additional duties upon county commissioners, policemen, constables, watchmen and other persons; authorizing the fire marshal or his assistants to enter upon properties to investigate various fire hazards and to order the removal or abatement of such hazards; conferring certain police powers upon the fire marshal and his assistants; repealing certain general, special and local legislation; and prescribing penalties," absolutely.

The act, approved the twenty-fifth day of April, one thousand nine hundred forty-five (Pamphlet Laws 299), entitled "An act providing for the establishment in counties of the second class of the lot and block plan for the registration of land titles, for the accumulation of county tax liens, and for the enumeration of the parcels of real estate to be assessed for county, city, borough, township, school and institution district taxation; providing for the incurring of indebtedness for the installation thereof; and imposing duties upon the county controller and the deed registrar in each of such counties," absolutely.

The act, approved the eighteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 787), entitled "An act conferring upon counties of the second class, power to enter upon private property and open and maintain drainage channels along county roads or highways; and providing penalty for interference with such drains or ditches," absolutely.

The act, approved the twenty-eighth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 1144), entitled "An act relating to the annual salaries of certain county officers of counties of the second class," absolutely.

The act, approved the sixteenth day of May, one thousand nine hundred fifty-one (Pamphlet Laws 300), entitled "An act authorizing counties of the second and fourth classes to establish fire training schools for the paid and volunteer firemen of municipalities within the county," as to counties of the second class.

Section 3302. General Repeal.—All other acts and parts of acts are hereby repealed insofar as they are inconsistent with the provisions of this act.

APPROVED—The 28th day of July, A. D. 1953.

JOHN S. FINE