

petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as herein provided.

Section 510. The city council shall appoint a city manager [a city treasurer] and a city clerk. The office of city manager and city clerk may be held by the same person. The council may provide for the manner of appointment of a city solicitor, any planning board, zoning board of adjustment or personnel board in the city, and may create commissions and other bodies with advisory powers.

Section 621. * * *

(b) If an elected city treasurer or city controller is in office at the time of the adoption of an optional charter plan under the provisions of this act, a treasurer or controller, as the case may be, shall not be [appointed or] elected to take office until after the resignation, death, removal or expiration of the term of said treasurer or controller.

APPROVED—The 30th day of November, A. D. 1959.

DAVID L. LAWRENCE

No. 594

AN ACT

Amending the act of June 24, 1939 (P. L. 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," changing the method for determining the penalty to be imposed for the crime of murder of the first degree.

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

Section 1. Section 701, act of June 24, 1939 (P. L. 872), known as "The Penal Code," is amended to read:

Section 701, act of June 24, 1939, P. L. 872, amended.

Section 701. Murder of the First and Second Degree.—All murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration of, or attempting to perpetrate any arson, rape, robbery, burglary, or kidnapping, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree. The jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict whether the person is guilty of murder of the first or second degree. If such person is convicted by confession, the court shall

proceed, by examination of witnesses, to determine the degree of the crime, and to give sentence accordingly.

Whoever is convicted of the crime of murder of the first degree is guilty of a felony and shall be sentenced to suffer death in the manner provided by law, or to undergo imprisonment for life, at the discretion of the jury trying the case, [which shall fix the penalty by its verdict. The court shall impose the sentence so fixed, as in other cases. In cases of pleas of guilty, the court, where it determines the crime to be murder of the first degree, shall, at its discretion, impose sentence of death or imprisonment for life. The clerk of the court wherein such conviction takes place shall, within ten (10) days after such sentence of death, transmit a full and complete record of the trial and conviction to the Governor.] *which shall, in the manner hereinafter provided, fix the penalty. In the trial of an indictment for murder, the court shall inform the jury that if they find the defendant guilty of murder in the first degree, it will be their further duty to fix the penalty therefor, after hearing such additional evidence as may be submitted upon that question. Whenever the jury shall agree upon a verdict of murder of the first degree, they shall immediately return and render the same, which shall be recorded, and shall not thereafter be subject to reconsideration by the jury, or any member thereof. After such verdict is recorded and before the jury is permitted to separate, the court shall proceed to receive such additional evidence not previously received in the trial as may be relevant and admissible upon the question of the penalty to be imposed upon the defendant, and shall permit such argument by counsel, and *deliver such charge thereon as may be just and proper in the circumstances. The jury shall then retire and consider the penalty to be imposed and render such verdict respecting it as they shall agree upon. A failure of the jury to agree upon the penalty to be imposed, shall not be held to impeach or in any way affect the validity of the verdict already recorded, and whenever the court shall be of opinion that further deliberation by the jury will not result in an agreement upon the penalty to be imposed, it may, in its discretion, discharge the jury from further consideration thereof, in which event if no retrial of the indictment is directed, the court shall sentence the defendant to life imprisonment upon the verdict theretofore rendered by the jury, and recorded as aforesaid. The court shall impose the sentence so fixed as in other cases. In cases of pleas of guilty, the court where it determines the crime to be murder of the first degree, shall, at its discretion, impose sentence of death or imprisonment for life. Where a sentence of death is imposed, the clerk of the court,*

* "deliver" in original.

wherein conviction takes place, shall, within ten (10) days after such sentence of death, transmit a full and complete record of the trial and conviction to the Governor.

Whoever is convicted of the crime of murder of the second degree is guilty of a felony, and shall, for the first offense, be sentenced to undergo imprisonment by separate or solitary confinement not exceeding twenty (20) years, or fined not exceeding ten thousand dollars, or both, and for the second offense shall undergo imprisonment for the period of his natural life.

Section 2. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 1st day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 595

AN ACT

Amending the act of May 4, 1927 (P. L. 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," authorizing the improvement of streets by the borough without petition and the assessment and collection of costs from abutting property owners under certain conditions.

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

The Borough Code.

Section 1. Section 1712, act of May 4, 1927 (P. L. 519), known as "The Borough Code," reenacted and amended July 10, 1947 (P. L. 1621), is amended to read:

Section 1712, act of May 4, 1927, P. L. 519, reenacted and amended July 10, 1947, P. L. 1621, further amended.

Section 1712. Proceedings With or Without Petition.—Boroughs, with petition or without petition, may grade, curb, gutter, pave, macadamize, or otherwise improve, streets or parts or a particular width or additional widths, thereof, with or without the assistance or contribution of the State, county, or a corporation occupying the thoroughfare, and, where the petition for the improvement is signed by petitioners representing a majority in the number of feet of assessable properties abutting on the proposed improvement, *or by unanimous vote of council where a street or part thereof lacking such improvements connects streets or parts thereof which have such improvements*, may assess and collect the whole cost thereof, or the whole cost not thus aided or contributed, *or any part thereof, from the owners of real estate abutting on the improvement, by an equal assessment on the foot-front, including the expenses of the necessary drainage, but, in all other cases, not more

* "of" in original.