

of the same, be, and the same are hereby, exempted from all and every county, city, borough, township, bounty, road, school, and poor tax: Provided, That all property, real or personal, other than that which is in actual use and occupation for the purpose aforesaid, and from which any income or revenue is derived, shall be subject to taxation, except where exempted by law, for State purposes, and nothing herein contained shall exempt same therefrom: And provided, That all property, real and personal, in actual use and occupation for the purposes aforesaid, shall be subject to taxation, unless the person or persons, association or corporation, so using and occupying the same, shall be seized of the legal or equitable title in the realty and possessor of the personal property absolutely.

APPROVED—The 30th day of April, A. D. 1925.

GIFFORD PINCHOT.

No. 235.

AN ACT

To amend chapter fourteen of the act, approved the fourteenth day of July, one thousand nine hundred and seventeen (Pamphlet Laws, eight hundred and forty), entitled "An act concerning townships; and revising, amending, and consolidating the law relating thereto," by adding article three thereto, providing for a system of sewers and drains in townships of the second class, and for the acquisition of private sewer systems.

Section 1. Be it enacted, &c., That chapter fourteen of the act, approved the fourteenth day of July, one thousand nine hundred and seventeen (Pamphlet Laws, eight hundred and forty), entitled "An act concerning townships; and revising, amending, and consolidating the law relating thereto," is hereby amended by adding thereto article three, which reads as follows:

CHAPTER XIV

SEWERS AND DRAINS

ARTICLE III

IN TOWNSHIPS OF THE SECOND CLASS

(a) *Establishing and Constructing Sewer and Drainage Systems; Sewer Connections; and Rates; Disposal of Sewage; Assessment of Cost of Construction.*

Section 1142. Subject to the provisions of Section 1158 hereof, townships of the second class may establish and construct a system of sewers and drainage, locating the same as far as practicable along and within the lines of the public roads of the townships as

seem advisable to the board of supervisors. The supervisors may permit and, where necessary for the public health, require adjoining and adjacent property owners to connect with and use the same. All persons so connecting shall pay, in addition to the cost of making such connection, a monthly or annual rate prescribed by a resolution of the board of supervisors. Such monthly or annual rate shall constitute a lien, until paid, against the property so connecting with such system and the amount thereof may be recovered by due process of law.

Nothing in this section shall be construed to repeal or modify any of the provisions of the Public Service Company Law.

Section 1143. Where it is reasonably impracticable, in the judgment of the supervisors, in any part of such system to carry such sewers or drains along the lines of public roads, they may locate and construct so much of the same as is necessary through private lands.

Section 1144. The supervisors shall make the necessary provision for the disposition of the sewage and drainage within, or for carrying the same beyond, the limits of the township, and to this end they are hereby authorized to enter into contracts with other municipalities and other corporations or persons and to purchase, acquire, enter upon, take, appropriate, occupy and use such lands, rights, and interests therein within the corporate limits of other townships or boroughs as shall be necessary for the proper location, construction, maintenance, use, and operation of sewer main, drains, or disposal plants, including such lands, rights, and interests therein as shall be necessary for future additions to and enlargements of such sewerage facilities, and as may be necessary to carry out the plans and specifications upon which a permit has been issued by the Secretary of Health in accordance with the provisions of the act of April twenty-second, one thousand nine hundred and five, entitled "An act to preserve the purity of the waters of the State for the protection of public health" and of "The Administrative Code."

Section 1145. In the event of inability to agree with the owners, either for the land necessary for so much of the line of sewers and drains as are not located upon public roads, or for so much land as is required for the disposition of the sewage, the supervisors may enter upon said land and mark thereon the route and width necessary for the construction of the line of sewers or drains or the boundaries of so much land as is necessary for disposition of such sewage, and occupy the said land for such purposes. For all damage done or suffered or which accrues to the owner or owners of such land by reason of the taking of the same the

funds of the township raised by taxation shall be pledged and deemed as security; such damages to be determined by viewers in the same manner as like damages are determined in townships of the first class under the provisions of sections one thousand seventy-four, one thousand and seventy-five, one thousand seventy-six, and one thousand and seventy-seven of the act to which this is an amendment.

Section 1146. The damages as awarded when the report is finally confirmed shall be entered as a judgment, and if the same is not paid within thirty days after the entry thereof, execution to enforce the collection thereof may be issued as in other cases of judgment against townships.

Section 1147. The cost of construction of any system of sewers or drains constructed by the authority of section one thousand one hundred forty-two of this act shall be charged upon the properties accommodated or benefited thereby to the extent of such benefits.

Section 1148. Whenever a sewer system is constructed by a township of the second class for the accommodation of a certain portion only of the township, the supervisors of such township may constitute the territory accommodated into a sewer district or divide it into several sewer districts. In every such case of division into several districts the supervisors shall make an estimate of the proportion of the cost of the sewer system which should equitably be charged on each of said districts, and declare and establish such apportionment by resolution. No district shall be charged with more than its due proportion of the cost of the main sewers, pumping-stations, et cetera, used jointly by more than one district; the aggregate amount charged on property in any such district shall not exceed the amount of such estimate, subject to the provisions of section eleven hundred and fifty of this act. Where the whole of the township is accommodated by the system it may also be treated as a single district, or divided into districts and be subject to the foregoing provisions.

Any amount not legally chargeable upon properties benefited shall be paid out of the general township fund.

Section 1149. The charge for any such sewer construction in any township of the second class shall be assessed upon the properties accommodated or benefited, in either of the following methods:

(a) By an assessment, pursuant to a resolution of the board of supervisors, of each lot or piece of land in proportion to its frontage abutting on the sewer, allowing such reduction in the case of properties abutting on more than one sewer as the resolution

may specify. No assessment by frontage shall be made on properties of such a character as not to be lawfully subject to such manner of assessment, and each abutting property shall be assessed with not less than the whole amount of the benefit accruing to it and legally assessable.

(b) By an assessment upon the several properties abutting on the sewer in proportion to benefits. The amount of the charge on each property shall be ascertained as provided in section eleven hundred and fifty of this act.

When a township is divided into sewer districts the assessment in each district may be by different methods.

Section 1150. In all cases where the board of supervisors shall select the method provided by subdivision (b) of the foregoing section, they shall petition the court of common pleas for appointment of viewers to assess benefits. In all cases where they shall neglect, for a period of three months after the completion of the sewer system, to either ordain assessments by frontage or present petition for appointment of viewers, taxpayers of the township whose property valuation as assessed for taxable purposes within the township shall amount to fifty per centum of the total property valuation as assessed for taxable purposes within the township, may present a petition to the court of common pleas of the proper county for the appointment of viewers to assess benefits, and in all cases where such taxpayers shall, within three months of the adoption of a resolution levying an assessment under the method provided by subsection (c) of said section eleven hundred and forty-nine, by petition state to said court that such assessment insufficiently represents the benefits accruing to abutting properties, they may include in such petition a prayer for the appointment of viewers to assess benefits. In either case the court shall thereupon appoint three disinterested persons from the board of county viewers, neither of whom shall be a resident of that portion of the township which is accommodated by the sewer in question. The viewers or a majority of them, having been sworn or affirmed to perform their duties with fidelity and impartiality, shall assess upon each piece of land, abutting upon the line of said sewer system which in their opinion is benefited by its construction, such amount as represents the benefit accruing to such lot. In no case shall the viewers, in assessing benefits to private property through which any sewer runs, take into consideration any damages which such property has sustained, but all such damages shall be assessed in the manner provided in sections ten hundred and seventy-four to ten hundred

and seventy-seven inclusive of the act to which this is an amendment. The aggregate of the assessments in any sewer district shall not exceed the amount charged to such district for its share of the cost of the sewer construction unless the same shall, by petition of taxpayers, whose property valuation as aforesaid shall amount to fifty per centum of the total property valuation as assessed for taxable purposes within the township, presented within three months after the adoption a resolution providing for an assessment by frontage, be stated to insufficiently represent the amount of benefits to such properties, in which case the proceedings by taxpayers authorized above shall be applicable. Upon the filing of such a petition by taxpayers as aforesaid for appointment of viewers, any assessment made by the supervisors and any proceedings thereunder shall be null and void.

The viewers shall file a report of their proceedings in the same manner as provided in section ten hundred and eighty-three of the act to which this is an amendment, and all the provisions of said section shall be followed relative to such report.

Section 1151. After the amount of the assessment charged upon the several properties has been established, either by resolution making assessments according to frontage, or by confirmation of any report of viewers, in whole or in part, it shall be the duty of the township supervisors to file municipal liens for the assessments covered by such resolution or confirmation within the time and in the manner provided by law; the same to be subject in all respects to the general law providing for the filing and recovery upon municipal liens. The amounts of all assessments shall be payable to the township treasurer for the use of the township. The supervisors shall also make out bills for the amounts charged against each property, which shall be forthwith sent to all property owners residing in the township, and mailed to all such owners residing elsewhere whose address is known.

The costs of publication of notices in proceedings before viewers shall be paid by the township upon presentation of bills approved by the court.

(b) **Contracts with Individuals or Corporations for Construction and Maintenance of Sewer and Drainage Systems.**

Section 1152. In any case where, under the authority of section eleven hundred and forty-two of this act, a system of sewage and drainage covering any township of the second class in whole or in part shall have been approved and authorized by resolution, the supervisors may enter into a contract with any responsible individual or individuals or corporation for the construction of such system of sewage or drainage at

the expense of such individual or individuals or corporation. He, they, or it shall be entitled under such contract to exercise all the powers of the township in the construction, maintenance, and operation of such system of sewage or drainage, with the right to collect such charges in connection therewith as the supervisors prescribe in as full manner as the same might have been collected by the township or the supervisors. In such contract the supervisors shall reserve to the township the right at any time or after a prescribed time to itself take possession of such system of sewage and drainage and its appurtenances at a price and upon terms to be fixed in the contract.

Nothing in this section shall be construed to repeal or modify any of the provisions of the Public Service Company Law.

(c) Sewers and Drains in Streets or Alleys or Over Private Property; Assessment of Cost of Construction According to Benefits.

Section 1153. Subject to the provisions of section 1158 hereof, townships of the second class may construct sewers and drains in any street or alley or through or on or over private property. The costs, damages, and expenses of the construction of any such sewers or drains shall be assessed upon the properties accommodated or benefited, in either of the following methods:

(a) By an assessment, pursuant to a resolution of the township board of supervisors, of each lot or piece of land in proportion to its frontage abutting on the sewer, allowing such reduction in the case of properties abutting on more than one sewer as the resolution may specify. No assessment by frontage shall be made on properties of such a character as not to be lawfully subject to such manner of assessment, and each abutting property shall be assessed with not less than its proportion aforesaid of the entire cost and expense of such construction.

(b) By an assessment upon the several properties abutting on the sewer in proportion to benefits; the amount of the charge on which property shall be ascertained and the rights of taxpayers are conferred, as in townships of the first class, under the provisions of sections five hundred and fifty-three to five hundred and sixty-five both inclusive of the act to which this is an amendment.

(d) Sewers Under State and County Highways.

Section 1154. Townships of the second class may construct sewers and drains in and under any county or State highway or State-aid highway within the township boundaries. In case of the construction of sewers upon county highways the consent of the county commissioners of the county shall first be obtained,

and in case of the construction of sewers upon any State highway or State-aid highways the consent of the Secretary of Highways shall first be obtained.

Section 1155. Whenever sewers have been or shall be laid or constructed by any second class township in and under such highways, such township may ascertain, levy, and collect the costs and expenses of the construction thereof from the abutting property holders in the same manner as in first class townships, under the provisions of sections five hundred and fifty-three to five hundred and sixty-four of this act.

(e) *Connecting with Sewer of Adjoining Municipality.*

Section 1156. Any township of the second class may connect with an existing sewer owned by any adjacent municipality, for sewage purposes, in the following manner:

An application shall be made by the board of supervisors to the court of quarter sessions setting forth that fact. If the court shall be of the opinion that such connection can be made without impairing the usefulness of the existing sewer, it shall appoint three viewers who shall view the premises, and investigate the facts of the case, and shall assess the proportionate part of the expense of building the original sewer upon such township of the second class, and shall fix the proportion of the expense for repairs which the municipality and the township of the second class shall thereafter bear, and determine all other questions liable to arise in connection therewith.

Section 1157. The viewers shall report to the court the result of their investigation, which report shall be confirmed within thirty days, unless exceptions thereto are filed. After confirmation of such report or the disposal of any exceptions any party interested may appeal from the decision of the court of quarter sessions to the Superior Court.

Section 1158. No sewer system of sewers or drain shall be constructed under the provisions hereof unless a resolution of the board of supervisors authorizing the same shall be published in a newspaper of general circulation published in the county in which the township is situated, once a week for three successive weeks. If, within twenty days after the last publication or at any time during the period of publication, taxpayers of the township whose property valuation is assessed for taxable purposes within the township, shall amount to fifty per centum of the total property valuation as assessed for taxable purposes within the township, shall sign and file in the office of the prothonotary of the court of common pleas of the county in which the township is located a written protest against the construction of such

sewer, sewer system, or drain, then the construction authorized by such resolution shall not be undertaken or proceeded with.

(f) Acquisition of Sewer Systems.

Section 1159. Any township of the second class in which any person, firm, or corporation is maintaining sewers and culverts with the necessary inlet and appliances for surface and under-surface and sewage drainage, may become the owner of such sewers, culverts, inlet, and appliances, by paying therefor the actual value of the same at the time of the taking by the township.

In case the supervisors of the township cannot agree with the owners of such sewers as to the price to be paid therefor, the supervisors may enter upon and take possession of such sewers, culverts, inlets, and appliances. For all damage done or suffered or which accrues to the owner or owners of such sewer by reason of the taking of the same, the funds of the township raised by taxation shall be pledged and deemed as security; such damages to be determined by viewers in the same manner as damages for the construction of sewers are determined in townships of the first class under the provisions of sections one hundred and seventy-four to one hundred and seventy-seven inclusive of the act to which this is an amendment. If any sewer or sewer system is acquired by purchase under the provisions of this section, the cost of such acquisition may be distributed or assessed in the same manner as if such sewer or sewer system had been constructed by such township under the provisions of this act.

APPROVED—The 30th day of April, A. D. 1925.

GIFFORD PINCHOT.

No. 236.

AN ACT

Providing for the admission of testimony given in ejectment suits upon a retrial and in subsequent real issues when the parties claim under a common source.

Evidence.

Testimony in ejectment to be admissible in later suits involving same titles.

Section 1. Be it enacted, &c., That whenever a suit in ejectment involving title to or right of possession of any real estate or any interest therein has been tried heretofore or shall be tried hereafter in any court within this Commonwealth having jurisdiction of the subject-matter, wherein the parties plaintiff and defendant claim title to or right of possession of real estate or any interest therein or any portion there-