

functions as shall, from time to time, be prescribed by law.

Section 6. Constitutionality.—It is the intention of the General Assembly that if this act cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding unconstitutional any part or parts thereof, the remaining provisions of the act shall be given full force and effect as completely as if the part or parts held unconstitutional had not been included herein.

Section 7. This act shall take effect immediately upon its approval by the Governor. When effective.

APPROVED—The 1st day of June, A. D. 1931.

GIFFORD PINCHOT

No. 145

AN ACT

To amend sections two hundred sixteen, two hundred seventeen, two hundred eighteen, three hundred one, three hundred two, three hundred three, to add section three hundred four, to amend paragraph four of section one thousand six, sections one thousand twenty-six, one thousand thirty-five, one thousand thirty-seven, one thousand thirty-eight, one thousand thirty-nine, one thousand one hundred five, clauses twenty-six, fifty-three and fifty-four of section one thousand two hundred two, sections one thousand three hundred one, one thousand three hundred eight, one thousand six hundred five, one thousand six hundred ten, one thousand six hundred eleven, one thousand six hundred twelve, one thousand six hundred thirteen, one thousand six hundred fourteen, one thousand six hundred fifteen, one thousand seven hundred forty-five, to add sections two thousand one hundred seventy-four and two thousand one hundred seventy-five, two thousand four hundred ninety, two thousand four hundred ninety-one, two thousand four hundred ninety-two, to amend sections two thousand two hundred one, two thousand two hundred four, two thousand five hundred one, and two thousand nine hundred ten, and to repeal section two thousand nine hundred eleven, of the act, approved the fourth day of May, one thousand nine hundred and twenty-seven (Pamphlet Laws, five hundred nineteen), entitled "An act concerning boroughs; and revising, amending, and consolidating the law relating to boroughs," by further regulating the consolidating of boroughs; providing that in annulment proceedings territory formerly included in the borough may be created a new township; providing for the change of corporate names of boroughs; fixing the costs to be charged by burgesses; regulating surcharges against borough officers, and reports of auditors and appeals therefrom; further regulating the bonds and duties of borough treasurers, and the manner in which payments shall be made out of the funds in the treasury; authorizing the fixing of the time of opening and closing certain exhibitions; forbidding borough officers and employes to be interested in certain contracts, and prescribing penalties; providing for bonds to protect labor and material-men on public works contracts; reducing time for allowance of tax reductions and changing penalties; eliminating the necessity of appointing viewers in certain proceedings; further regulating the opening and vacation of roads, streets and alleys, and assessment of damages therefor; authorizing adjoining boroughs to construct and maintain passageways; authorizing boroughs to construct sewers on boundary streets and assess the costs thereof, to erect retaining walls and to condemn property and assess benefits for such purposes; providing for the appropriation of lands for airports; and empowering boroughs to regulate and license transient retail business.*

The General
Borough Act.

Section 216, act
of May 4, 1927 (P.
L. 519), amended.

Section 1. Be it enacted, &c., That section two hundred sixteen of the act, approved the fourth day of May, one thousand nine hundred and twenty-seven (Pamphlet Laws, five hundred nineteen), entitled "An act concerning boroughs; and revising, amending, and consolidating the law relating to boroughs," is hereby amended to read as follows:

*Section 304, mentioned in the title as having been added, was eliminated in the passage of the bill and, therefore, will not be found in the act.

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

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

(b) *If the councils are unable to effect such joint agreement within sixty days after each shall be requested so to do in writing as aforesaid, or if for any reason the councils fail to effect such joint agreement within said sixty-day period, the court of quarter sessions of the county or counties in which said boroughs are situate shall, if satisfied, after petition or petitions presented by at least ten per centum of the qualified electors of each borough and hearing held thereon, that the councils have failed, after being duly requested in writing as aforesaid, to enter into such joint agreement, enter a decree for an election to be held in said boroughs on the question of consolidation of said boroughs into one borough—the decree to fix the date for such election, designate the name of the new borough (which name shall be as prayed for in the petition or petitions), the number of wards, if any, into which the borough is to be divided, the territorial boundaries thereof, and shall also set forth such terms as appear equitable, just and proper for the disposition of the assets of each of the boroughs and for the liquidation of indebtedness of each of the boroughs, either jointly, separately, or in certain defined proportions, and the adjusting and paying of the same by separate rates of taxation on all property subject to taxation within the boundaries of such boroughs respectively.*

The court shall direct the county commissioners to furnish to each election district in such boroughs the necessary ballots and supplies for such election.

On presentation of such petition or petitions, the court shall fix a date for hearing, which shall be held within thirty days from the date of presentation of the

petition or petitions. Notice of the time and place of the hearing shall be given the president and secretary of each of the boroughs at least fifteen days before the date fixed for the hearing.

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

Section 217
amended.

Section 2. That section two hundred seventeen of said act is hereby amended to read as follows:

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

The election shall be by ballot, which shall be marked "Proposed consolidation," and below shall be printed the words "For consolidation" and "Against consolidation," and the elector shall designate with an "X" his desire to vote for or against such consolidation.

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

Section 218
amended.

Section 3. That section two hundred eighteen of said act is hereby amended to read as follows:

Section 218. Agreement or Certified Copy of Decree to be Filed with Secretary of Commonwealth; Letters Patent.—The agreement or a certified copy thereof, with all its endorsements, or a *certified copy of the decree of the court of quarter sessions, with all its endorsements,* shall be filed in the office of the Secretary of the Commonwealth. Upon the filing thereof, the Governor shall cause letters patent to be issued, under the great seal of the Commonwealth, consolidating the boroughs into

one corporation by the name set forth in the joint agreement or decree of the court of quarter sessions. A copy of such agreement, or of such decree, duly certified by the Secretary of the Commonwealth under the seal of his office, shall be evidence of the existence of the new borough.

Section 4. That article three of said act is hereby amended to read as follows:

Article III, sections 301, 302, and 303 amended.

ARTICLE III

ANNULMENT OF BOROUGH CHARTERS; AND CHANGE OF CORPORATE NAMES

Section 301. Petitions for Annulment of Charters or Change of Corporate Names.—The several courts of quarter sessions within this Commonwealth shall have power, upon petition of two-thirds of the taxable inhabitants of any borough heretofore incorporated, to decree the annulment of the charter or the change of the corporate name of such borough. [The petition for the] *In the case of an annulment of charter, such petition shall set forth that the petitioners desire that the territory embraced within such borough shall revert to and become a part of the township from which it was taken or that it shall be created a new township of the second class, in which case the petition shall also set forth the proposed name of the new township.*

Section 302. Filing Petition; Notice; Exceptions; Decree.—Upon presentation of such petition for annulment [as aforesaid] or change of corporate name to the court, it shall be filed with the clerk, and notice thereof shall be given in at least one newspaper of the proper county for a period of not less than thirty (30) days immediately preceding the date of such hearing, and during which time exceptions may be filed to such application by any person interested; and at such hearing the court shall make a full investigation of the case and, if it shall find that the conditions prescribed by law have been complied with and shall believe that it is expedient to grant the prayer of the applicants, shall grant the same and make a decree accordingly; and said application and decree shall be recorded in the recorder's office of the proper county.

Section 303. Territory to Revert to Township; Corporate Name Changed; Indebtedness.—Upon the [entry and] recording and filing of such decree, as above provided, in case of an annulment of charter, the lands embraced within the limits of such borough, [whose] the charter of which is annulled, shall thereupon revert to and become a part of the township from which it was taken, and be under and subject to its government and control, or shall become a new township of the second class under the name set forth in the decree of court: Provided, however, That any indebtedness of such bor-

ough shall, in cases where such borough reverts to a former township, be paid from the taxes assessed and collected from that portion of said township formerly included within the limits of such borough: *And provided, That, in the case of a change of the corporate title, the corporate title of said borough shall thereafter be as set forth in said decree, but such change shall not in any way affect any liabilities incurred, rights accrued or vested, obligations issued or contracted, or any suits or prosecutions pending or instituted to enforce any right or penalty accrued or punish any offense committed, prior to such change.*

All costs and expenses incident to the proceedings for the annulment of the charter or change of the title, as aforesaid, shall be paid by the petitioners.

Paragraph 4 of section 1006, amended.

Section 5. That paragraph four of section one thousand six of said act is hereby amended to read as follows:

IV. Except where otherwise in this act provided, to publish, once in one newspaper printed in the county, [and by twelve advertisements posted in public places in the borough,] every enactment, regulation, ordinance, or other general law at least ten days before the same shall take effect.

Section 1026 amended.

Section 6. That section one thousand twenty-six of said act is hereby amended to read as follows:

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

Section 1035 amended.

Section 7. That section one thousand thirty-five of said act is hereby amended to read as follows:

Section 1035. Auditors to Meet Yearly and Prepare a Financial Statement.—The auditors of the borough shall meet on the third Tuesday of January of each year, and shall audit, adjust, and settle the accounts of the tax collectors and all officers of the borough; and shall prepare a statement thereof, which shall contain an audit of the accounts of the last fiscal year, and shall also show a complete statement of the financial condition of the borough, giving in detail the actual indebtedness, the amount of the funded debt, the amount of the floating debt thereof, the valuation of taxable property therein, the assets of the borough with the character and value thereof, and the date of

maturity of the respective forms of funded debt thereof. Such statement [shall] *may* be published [in the manner required by law for auditors' statements and audits,] *by council as ordinances are published*, and shall be in lieu of all other statements relating to indebtedness required to be published by existing law. The amount of any balance or shortage, or of any expenditure of a kind, or made in a manner, prohibited or not authorized by statute, [or] which causes a financial loss to the borough, shall be a surcharge against any officer against whom such balance or shortage shall appear, or who, by vote, act, or neglect, has permitted or approved such expenditure.

Section 8. That section one thousand thirty-seven of said act is hereby amended to read as follows:

Section 1037
amended.

Section 1037. Auditors to Post and File Statement in Court.—The auditors shall complete such audit, adjustment, and settlement, as soon as possible, and shall, within ten days thereafter, publish, by posting printed or typewritten handbills in five public places in the borough, an itemized statement of the receipts and expenditures of the several officers for the preceding year, *certifying therein the date on which such audit was completed*. They shall also, within such period of ten days, file a copy of the statement with the secretary of the borough, and also with the clerk of court of quarter sessions of the county, *certifying therein the date on which such audit was completed*, which shall be at all times subject to public inspection. A copy of such statement shall also be filed with the Secretary of Internal Affairs. Whenever two or more borough offices shall be exercised by the same person, only one statement shall be required.

Section 9. That section one thousand thirty-eight of said act is hereby amended to read as follows:

Section 1038
amended.

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

Section 10. That section one thousand thirty-nine of said act is hereby amended to read as follows:

Section 1039
amended.

Section 1039. Taxpayers Appealing to Enter Bond.—No appeal by a taxpayer or officer shall be allowed, unless, *at the time of taking such appeal*, the appellant shall enter into bond in the sum of five hundred dollars, with sufficient surety, to prosecute the same with

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

Section 1105
amended.

Section 11. That section one thousand one hundred five of said act is hereby amended to read as follows:

Section 1105. Bond and Duties.—The borough treasurer shall, before entering upon the duties of his office, give bond, with surety as required by the borough, *and conditioned for the faithful performance of his duties*; he shall perform the duties of the township treasurer within the borough, *except as may be otherwise provided in this act*, shall keep a just account of all receipts and disbursements, and shall annually submit his account to the borough auditors; he shall pay over all moneys remaining in his hands and deliver all books, papers, accounts, and other things belonging to the borough, to his successor. All moneys received by any officer, or other person, for the use of the borough shall be forthwith paid to the borough treasurer. *He shall deposit all moneys received by him in a bank or trust company in the name of the borough, and no money shall be withdrawn therefrom except by an order signed by the president of council, borough secretary, and borough treasurer, and, in the case of boroughs having a controller, countersigned by such controller.*

Section 1301
amended.

Section 12. That section one thousand three hundred one of said act is hereby amended to read as follows:

Section 1301. General Levy.—The council of the borough shall have power, by ordinance, to levy and collect annually, for general borough purposes, any tax, not exceeding fifteen (15) mills on the dollar on the valuation assessed for county purposes as now is or may be provided by law. All property, offices, professions, and persons, made taxable by the laws of this Commonwealth for county rates and levies, [shall be taxable] *may, in the discretion of council, be taxed after the same manner for general borough purposes.*

Clauses 26, 53 and
54 of section
1202, amended.

Section 13. That clauses twenty-six, fifty-three and fifty-four of section one thousand two hundred two of said act are hereby amended to read as follows:

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

LIII. Regulation of Contracts.—To make contracts or purchases in connection with proper legal requirements of the borough: Provided, That all contracts or purchases, other than purchases for water, electric light, and other public works of the borough, or for improvement made by its employes, or where the State or county is a party with the borough to a street improvement made by any borough, involving an expenditure of over five hundred dollars (\$500), shall be in writing, and shall not be made except with and from the lowest responsible bidder, after due public notice by the secretary, published once a week for three weeks at intervals of seven days in one newspaper published in such borough, and, if no newspaper is published therein, then by publication in one newspaper *printed in [of] the county and circulating generally in the borough*; and such bids shall be received, opened, and read in open meeting of council, at a time fixed by such notice, and not earlier than twenty-one days after the first publication thereof.

In case of an emergency, so declared by the affirmation vote of two-thirds of all the members of said council, or a majority of council plus one when the number composing such council is less than nine, the notice shall be published at least one week prior to the time fixed therein for opening bids.

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

The successful bidder, when advertising is required herein, shall be required to furnish a bond, with sufficient surety, in the amount of fifty per centum of the amount of the contract, within ten days after the contract has been awarded, and upon failure to furnish such bond within such time, the previous award shall be void.

It shall not be lawful for any burgess, or member of council of any borough, or any officer, agent, or employe thereof, to be in any way interested, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials to be furnished to or for the use of such borough involving the expenditure by the borough of more than ten dollars in any one month or more than one hundred dollars in any year, or to receive any reward or gratuity from any person interested in such contract or sale; nor shall any such burgess, member of council, officer, agent, or employe,

of any borough, be a member of any partnership, or a stockholder or officer of any corporation, or an agent or employe of any individual, partnership, or corporation, in any way interested in any contract for the sale or furnishing of any supplies or materials to be furnished to or for the use of or any work to be done for such borough involving the expenditure by the borough of more than ten dollars in any one month or more than one hundred dollars in any year; and any person violating these provisions, or any of them, shall forfeit his office or appointment in such borough, and also shall be guilty of a misdemeanor, and, upon conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars.

LIV. [Bonds from Contractor.—To require, and it shall be their duty so to do, in the improvement of lands or in the erection, alteration, addition or repair of edifices and public buildings of any kind in the borough, of the contractor or contractors employed in or about said improvements, an additional bond, with sufficient surety or sureties, providing for the payment of all labor and material entering into the said improvements. Labor and material-men, furnishing labor and material in and for said improvements upon the contract of such contractor, shall have the right, according to law, to sue in an action of assumpsit in the name of the obligee for his or their use upon said bond, upon proof of said contractor's failure to pay for said labor or material.] *Bonds for the Protection of Labor and Material-men.—It shall be the duty of every borough to require any person, copartnership, association, or corporation, entering into a contract with such borough for the construction, erection, installation, completion, alteration, repair of, or addition to, any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of five hundred (\$500) dollars, before commencing work under such contract, to execute and deliver to such borough, in addition to any other bond which may now or hereafter be required by law to be given in connection with such contract, an additional bond for the use of any and every person, copartnership, association, or corporation interested, in a sum not less than fifty (50%) per centum and not more than one hundred (100%) per centum of the contract price, as such borough may prescribe, having as surety thereon one or more surety companies legally authorized to do business in this Commonwealth, conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated. Such*

additional bond shall be deposited with and held by the borough for the use of any party interested therein. Every such additional bond shall provide that every person, copartnership, association, or corporation, who, whether as sub-contractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided, and who has not been paid therefor, may sue in assumpsit on said additional bond, in the name of the borough, for his, their, or its use, and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or it, and have execution thereof: Provided, however, That the borough shall not be liable for the payment of any costs or expense of any suit.

Section 14. That section one thousand three hundred eight of said act is hereby amended to read as follows:

Section 1308
amended.

Section 1308. Abatements and Penalties.—All persons who shall, within [ninety] *sixty* days from the date of notice, make payment of any taxes charged against them in the duplicate shall be entitled to a reduction of five per centum from the amount thereof *that shall be paid*. All persons who shall fail to make payment of any taxes charged against them in said duplicate, [for six months after notice given as aforesaid, shall be charged five per centum additional on the taxes charged against them,] *within the sixty days from the date of said notice, shall be charged one-half of one per centum per month, or fractional part thereof*, which shall be added thereto by the tax collector and collected by him.

Section 15. That section one thousand six hundred five of said act is hereby amended to read as follows:

Section 1605
amended.

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

Section 16. That section one thousand six hundred ten of said act is hereby amended to read as follows:

Section 1610
amended.

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

Section 17. That section one thousand six hundred eleven of said act is hereby amended to read as follows:

Section 1611
amended.

Section 1611. Signing Petition.—The petition shall be signed by a majority, in number and interest, of the owners of property abutting on the line of the proposed improvement, as fixed at the time of its presentation, and shall be verified by the affidavit of one or more of the petitioners. *Petitions for the vacation of roads, streets and alleys, or portions thereof, may release the borough from all damages due to such vacation, if the petition is signed by the owners of all the property abutting on the road, street or alley, or portion thereof, to be vacated.* The majority in interest of owners of undivided interests in any piece of property shall be deemed as one person for the purposes of the petition.

Section 1612
amended.

Section 18. That section one thousand six hundred twelve of said act is hereby amended to read as follows:

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

Section 1613
amended.

Section 19. That section one thousand six hundred thirteen of said act is hereby amended to read as follows:

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

Section 1614
amended.

Section 20. That section one thousand six hundred fourteen of said act is hereby amended to read as follows:

Section 1614. Effect of Failure to Appeal.—If no appeal shall be taken, or if the court on appeal shall

approve the ordinance, the borough may proceed with the improvement. Thereafter all parties interested shall be estopped from denying the fact that the petition was signed by the requisite [majority] number of the property owners as required by section sixteen hundred and eleven of this article.

Section 21. That section one thousand six hundred fifteen of said act is hereby amended to read as follows:

Section 1615
amended.

Section 1615. Assessment of Damages and Benefits.—Viewers shall be appointed, damages awarded, and benefits assessed as provided in article fourteen of this act, in the case of property taken, injured or destroyed: *Provided, That in proceedings to vacate a road, street or alley, where the owners of all the property abutting upon such vacated road, street or alley, or portion thereof vacated, shall petition council for such vacation and release the borough from all damages, no such proceedings shall be had.* In all cases of the assessment of damages for the opening or widening of any street or highway, the award of damages, if any, shall include all damages due to the grade at which said street or highway is to be opened or widened, and the plan attached to the report of the viewers awarding the damages shall have therein a profile plan showing the existing grade, as well as the grade to which said street or highway is to be opened and widened. Any costs and expenses which cannot be assessed upon property benefited shall be paid by the borough.

Section 22. That section one thousand seven hundred forty-five of said act is hereby amended to read as follows:

Section 1745
amended.

Section 1745. Appropriations to Improve Connecting Links.—Boroughs may, singly, or jointly with boroughs, cities, or counties, appropriate and expend moneys for the improvement of highways outside of the limits of such boroughs, for the purpose of connecting improved streets in such boroughs with State or State-aid highways. No such highways shall be improved which shall be more than one mile in length.

Whenever the comfort and safety of the residents of adjoining boroughs will be enhanced by any overhead or underground passageways connecting with adjoining public highways in either borough and extending to any plant or place of business where residents of such boroughs are empowered, such boroughs may jointly construct and maintain any such passageway or they may join with other interest in the construction and/or maintenance thereof.

Section 23. That article twenty-one of said act is hereby amended, by adding thereto sections two thousand one hundred seventy-four and two thousand one hundred seventy-five, to read as follows:

Article XXI
amended by adding sections 2174 and 2175.

(1) Sewers on Boundary Streets

Section 2174. Power to Lay and Construct.—Boroughs shall have authority to lay and construct sewers in any alley, street, or highway, any portion of which is within the limits of the borough, and which forms a portion of the boundary dividing the borough from any other city, borough, or township within the same county, in the same manner and to the same extent as if the whole of said alley, street, or highway was within the limits of the said borough.

Section 2175. Assessment of Benefits.—The property abutting on the side of said street, alley, or highway, which is located outside the limits of the borough constructing such sewers, shall, for a depth of one hundred fifty feet, be assessed for the cost of such sewer, as a sewage tax, in the same manner as such property would be assessed, under the laws of the Commonwealth, if it were entirely located within the limits of such borough, if such property is given permission to use such sewer and is not, at the time such sewer is constructed, provided with sewer facilities.

Section 24. That article twenty-four of said act is hereby amended, by adding thereto subdivision (d), and sections two thousand four hundred ninety, two thousand four hundred ninety-one, and two thousand four hundred ninety-two, as follows:

(d) Airports

Section 2490. Authority to Secure Lands for Airports.—All boroughs are hereby authorized and empowered to acquire, by lease or purchase, any land, lying either within or without the limits of such boroughs, which, in the judgment of the corporate authorities thereof, may be necessary and desirable for the purpose of establishing and maintaining municipal airdromes, aviation landing fields, and airport facilities.

Section 2491. Authority to Establish Airports and Lease the Same.—Any borough of this Commonwealth, acquiring land under the provisions of this act, is authorized and empowered to establish, equip, condition, operate, and maintain the same as a municipal airport, airdrome, landing field, or intermediate landing field, and may lease the same, or any part thereof, to any individual or corporation desiring to use the same for aviation purposes; and any borough of this Commonwealth may enter into a contract, in the form of a lease, providing for the use of said land, or any part thereof, by the Government of the United States, for the use by said Government of said land for aviation purposes, upon nominal rental or without consideration.

Section 2492. Join Airports.—Any borough, acquiring land under the provisions of this act, is authorized

Article XXIV
amended by add-
ing subdivision
(d) sections 2490,
2491 and 2492.

and empowered to acquire, by lease or purchase, land for aviation purposes, as hereinbefore provided, jointly with any county, city, borough, township, or political subdivision of this Commonwealth, and is hereby authorized and empowered to operate and maintain said airport, airdrome, landing field, or intermediate landing field, jointly, with any county, city, borough, township, or other political subdivision of this Commonwealth, upon such terms and conditions as may be agreed upon between the proper authorities of the county, city, borough, township, or other political subdivision of this Commonwealth.

Section 25. That section two thousand two hundred one of said act is hereby amended to read as follows:

Section 2201
amended.

Section 2201. Power to Widen and Deepen Water Courses, and Erect Retaining Walls.—Boroughs may widen and deepen water-courses running through the borough, and may erect such dykes, retaining walls and embankments along the same as shall be necessary to prevent the water from overflowing the banks thereof, and, for such purposes, may enter upon and condemn such property as may be necessary.

Section 26. That section two thousand two hundred four of said act is hereby amended to read as follows:

Section 2204
amended.

Section 2204. Proceedings to Assess Damages.—Any person aggrieved by reason of any ordinance passed pursuant to the preceding sections of this article may complain to the court of common pleas, and proceedings may be had in the court to fix and determine the damages for property taken, injured or destroyed, and for the assessment of benefits upon property benefited, and the rights of all parties interested, in the same manner as provided in article fourteen of this act.

*Section 27. That section two thousand five hundred one of said act is hereby amended to read as follows:

Section 2501.

Section 2501. Exercise of Eminent Domain.—Boroughs may enter upon and appropriate private property, and also land heretofore granted or dedicated to public use or other use, and which is no longer used for the purpose for which the same was granted or dedicated, and also lands where the title is defective, disputed, or doubtful, for the erection thereon of such public buildings and works as are necessary for municipal purposes within the limits of such borough.

Section 28. That section two thousand nine hundred ten of said act is hereby amended to read as follows:

Section 2910
amended.

Section 2910. [License.—Hereafter every person, whether principal or agent, entering into, beginning, or desiring to begin, a transient, retail business in any borough, for the sale of any goods, wares, or merchan-

*This section is a reenactment of the original section of the act of May 4, 1927 (P. L. 519), without change. All proposed amendatory matter was eliminated in the passage of the bill.

dise whatsoever, and who hires, leases, occupies, or uses any room, apartment, store, shop, building, railway car, or other place or structure, for the exhibition and sale of such goods, wares, or merchandise, shall take out a license for the same from the proper authorities of the said borough: Provided, however, That nothing herein contained shall apply to farmers selling their own produce, or to any sale of goods, wares, or merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.] *Licensing Transient Retail Business.*—*Every borough shall have power, by ordinance, to regulate and license each and every transient retail business, within such borough, for the sale of goods, wares, and/or merchandise, and to prohibit the commencement or doing of any such business until or unless the license required by such ordinance has been procured from the proper authorities by the person, firm, or corporation desiring to commence such transient retail business, and to enforce such ordinances by penalties not exceeding three hundred dollars and/or by other appropriate means. The amount of any such license shall not exceed two hundred dollars for each month, or fractional part thereof, during which any such sale is continued.*

Nothing contained in this act shall be construed to apply to farmers selling their own produce, or to the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.

Section 2911
repealed.

Section 29. That section two thousand nine hundred eleven of said act is hereby repealed.

Act of May 28,
1827 (P. L. 262).
repealed.

Section 30. That the act, approved the twenty-eighth day of May, one thousand nine hundred and seven (Pamphlet Laws, two hundred sixty-two), entitled "An act relating to borough officers, employes, and contracts; and providing for the punishment of any violation of its provisions," is hereby repealed.

When effective.

Section 31. This act shall become effective immediately upon its passage by the General Assembly and approval by the Governor.

APPROVED—The 9th day of June, A. D. 1931.

GIFFORD PINCHOT