

No. 567

AN ACT

To reenact, amend and revise the act, approved the first day of May, one thousand nine hundred and thirty-three (Pamphlet Laws 103), as amended, entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto."

CONTENTS

Article	Sections
I. Preliminary Provisions,	101-110
II. Classification, [and] Creation, <i>Consolidation and Re-establishment of Townships of the Second Class</i> ,	201-240
(a) Classification of Townships,	201
(b) [Creation] <i>Consolidation of Townships</i> ,	205-[216] 215
(c) Re-establishment of Townships of the Second Class,	225-226
(d) <i>Creation of Townships of the Second Class by Annulment of Borough Charters</i> ,	230
[(d)] (e) Officers for New Townships, ..	235
[(e)] (f) [Certificate of Creation of Townships] <i>Certificates to be Furnished to State Departments</i> ,	240
III. Township Lines and Boundaries,	301-307
IV. Election of Officers; Vacancies in Office,	401-423
(a) General Provisions,	401-402
(b) Election of Officers,	410-[415] 414
(c) Vacancies in Office,	420-423
V. Township Officers,	501-[594] 599
(a) General Provisions,	501-504
(b) Township Supervisors, Township Superintendent, and Roadmasters, ..	510-521
(c) Township Treasurer,	530-535
(d) Township Secretary,	540-[542] 541
(e) Township Auditors,	545-563
(f) Tax Collector,	570-[571]
(g) Assessor,	575
(h) Township Solicitor,	580-582
(i) Township Engineer,	585-587
(j) Township Police,	590-[594] 599

- VI. State and County Associations of Township Officers,601-614
 - (a) County Associations,601-604
 - (b) State *Associations,610-614
- VII. General Powers,701-702
- VIII. Contracts,801-[806] 809
- IX. Taxation *and* Finance, [Road Fund]
 - 901-[916] 911
- X. Eminent Domain; Assessment of Damages and Benefits,1001-1053
 - (a) General Provisions Relating to Eminent Domain,1001-[1015] 1017
 - (b) Procedure for the Exercise of Eminent Domain and the Assessment of Damages and Benefits,1020-1053
- XI. Roads, Streets, and Highways,1101-1196
 - (a) Laying Out, [Roads under the General Road Law] *Opening, Widening, Straightening, Vacating and Relaying Roads, Et Cetera; Repairs and Detours*,1101-1104
 - (b) Certain Roads Declared to be Public Roads,1105
 - (c) Opening and Repairing Roads, Detours, Et Cetera,1110-[1111] 1112
 - (d) [Changing] *Improving or Vacating* [or Altering] Roads by Agreement with Property Owners,1115
 - (e) Elimination of Curves,1120
 - (f) Acquisition of Unobstructed Views at Curves and Intersections,1125
 - (g) Relocation, Alteration and Vacation of Roads in or near State Parks, 1130-1133
 - (h) Grading or Paving [or Macadamizing] Streets or [Highways] *Roads* upon Petition of Property Owners,1135-1138
 - (i) Dedicated Roads, Streets, and Drainage Facilities,1140-[1146] 1147
 - (j) Entry on Private Property to Secure Road Material and to Open Ditches and Drains,1150-1152
 - (k) [Highways] *Roads* Crossing Railroads; Special Uses of [Highways] *Roads*,1155-1156
 - (l) Guideposts and Index Boards, ..1160-1161

* "Association," in original.

- (m) Protection of [Highways] *Roads* from Snowdrifts,1165
- (n) Grades of Highways,1170
- (o) Trees and Shrubbery within Limits of [Highway] *Road*,1175-1180
- (p) Obstructions and Nuisances,1185
- (q) Opening, Making [Amending] and Repairing [Highways] *Roads* and Bridges by Contracts with Taxpayers,1190-1196

XII. Boundary Roads, [and Highways] 1201-
[1225] 1230

- (a) Opening, Repairing and Improving *Roads* on Division Line of Townships,1201-1202
- (b) Maintenance of Roads Between Townships and Cities or Boroughs, ..1205
- (c) [Highway] *Road*, the Centre Line of Which Is the Dividing Line Between Townships and Boroughs or Cities in the Same County,1210
- (d) [Highway] *Road*, the Centre Line of Which is the Dividing Line Between Townships and Cities in Adjacent Counties,1215
- (e) Improvement of *Roads* or Streets Where More Than One-half of Width is in Township; Assessment of Property Outside Limits,1220
- (f) Assessment of Property Outside Limits for Street Improvement Where Street Entirely within Township,1225
- (g) *Agreements for Improving Roads or Streets Forming Boundaries between Townships and Boroughs*,1230

XIII. Bridges, [and Viaducts] ...1301-[1315] 1310

- (a) Over [Creeks, Rivulets] *Streams*, Gullies, Canals and Railroads,1301-
[1302] 1303
- (b) Over Streams, Railroads and Canals on Township Boundaries,1305-[1307]
- (c) Maintenance, Repair and Rebuilding of Bridges Built by County,1310
- [(d) Effect of Approval of Department of Highways,1315]

- XIV. Sidewalks and Footpaths, ..1401-[1403] 1404
- XV. Sewers and Drains,1501-[*1541] 1545
- (a) Establishing and Constructing Sewer and Drainage Systems; Sewer Connections and [Rates] Charges; Disposal of Sewage; Assessment of Cost of Construction, ..1501-[1511] 1512
- [(b) Contracts with Individuals or Corporations for Construction and Maintenance of Sewer and Drainage Systems,1515
- (c) Sewers and Drains in Streets or Alleys or over Private Property; Assessment of Cost of Construction According to Benefits,1520]
- [(d)] (b) Sewers under State and County Highways,1525-1526
- [(e)] (c) Connecting with Sewer of Adjacent Municipality,1530-[1532] 1531
- [(f)] (d) Acquisition of Sewer Systems,1535
- [(g)] (e) Joint Sewers and Drains, 1540-1541
- [(h)] (f) Non-debt Revenue Sewer Bonds,1545-[1547]
- [(i) Revolving Fund for Street, Sidewalk, and Sewer Improvements, 1550-1551]
- XVI. Water Supply and Waterworks, ...1601-1612
- XVII. Public Buildings,[1701] 1702-1707
- XVIII. Licenses and License Fees,1801-1813
- (a) Transient Retail Merchants,1801-[1803] 1802
- (b) Restrictions,1811-1813
- XIX. Parks, Playgrounds, Gymnasiums, Public Baths, Swimming Pools, Indoor Recreation Centers, and Forests, ...1901-1917
- XX. [Actions By and Against Townships] Zoning,[2001-2006] 2001-2010
- XXI. [Repeals] Actions By and Against Townships,2101-2106
- XXII. Repeals,2201

* "[1551]," in original.

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

Section 1. Sections 1 to 226 inclusive of the act, approved the first day of May, one thousand nine hundred thirty-three (Pamphlet Laws 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," are hereby reenacted, amended and revised to read as follows: Section 1. Be it enacted, etc., That the laws relating to townships of the second class are hereby *reenacted*, amended, consolidated, revised, and changed as follows:

The Second Class Township Code.

Sections 1 to 226, act of May 1, 1933 P. L. 103, reenacted, amended and revised.

ARTICLE I

PRELIMINARY PROVISIONS

Section 101. Short Title.—*Effective Date.* This act shall be known, and may be cited, as "The Second Class Township [Law] Code." This act shall take effect on the first day of July, one thousand nine hundred and thirty-three. *This reenactment, revision, amendment and *consolidation of the laws relating to townships of the second class shall become effective the first day of July, one thousand nine hundred and forty-seven.*

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

- (a) "Township," a township of the second class.
- (b) "Road" or "Public road," a road of a township of the second class and shall include a street, lane, alley, court or public square of such township.
- (c) "Highway" or "State highway," a road or highway of the State highway system.

Section 103. Excluded Provisions.—This act does not include any provisions, and shall not be construed to repeal any acts, relating to—

- (a) [The procedure for] *The assessment and valuation of property and persons for the purposes of taxation and collection of taxes and the collection of municipal [and tax] claims by liens;*
- (b) The method of incurring or increasing bonded indebtedness;
- (c) Election officers and conduct of elections;
- [(d)] Poor districts;
- (e) Boards of health;
- [(f)] (d) Public schools and school districts;
- [(g)] (e) Constables;

* "consolidations," in original.

- [(h)] (f) Justices of the peace;
- [(i)] (g) State roads, [State-aid roads,] and private roads;
- [(j) Township reward;]
- [(k)] (h) Validations of elections, bonds, ordinances, and acts of corporate officers;
- [(l)] (i) Free non-sectarian libraries;
- (j) *Crimes and offenses provided for in the Penal Code.*

Section 104. [Saving Clauses] *Construction of Act Generally.*—The provisions of this act, so far as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by this act of any act of Assembly, or part thereof, shall not revive any act or *part thereof heretofore repealed or superseded, nor affect the existence or class of any township heretofore created. The provisions of this act shall not affect any act done, liability incurred, or right accrued or vested, or affect any suit or prosecution, pending or to be instituted, to enforce any right or penalty or punish any offense under the authority of such repealed laws. All resolutions, regulations, and rules, made pursuant to any act of Assembly repealed by this act, shall continue with the same force and effect as if such act had not been repealed. Any person holding office 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 attached to such office prior to the passage of this act.

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

Section 106. *Construction of References.*—Whenever, in this act, reference is made to any act by title, such reference shall also apply to and include any codification wherein the provisions of the act referred to are substantially re-enacted.

Section 107. *How Act Applies.*—This act shall apply to all townships of the second class within the Commonwealth as now existing or hereafter created, established or reestablished.

Section 108. *Saving Clauses Where Class of Township Changed.*—Whenever any township of the second

* "parts" in original.

class is designated a township of the first class, or whenever any township of the first class is reestablished as a township of the second class, [or whenever any township is divided,] all liabilities incurred, rights accrued or vested, obligations issued or contracted, and all suits and prosecutions pending or to be instituted to enforce any right or penalty accrued or punish any offense committed prior to such change of class, [or division] and all resolutions, rules and regulations, shall continue with the same force and effect as if no such change [or division] had been made.

Section 109. Exception as to Taxation.—This act does not provide [a complete system] for the assessment and *valuation of property and persons for the purposes of taxation and the collection of township taxes.* [but the taxation provisions herein contained shall be construed as supplementary to the general local taxation laws. All acts and parts of acts relating to taxation in townships of the second class, not inconsistent with this act, in force prior to the passage of this act, which are not reenacted or specifically repealed by this act, shall remain in force as to such townships in the same manner as prior to the passage of this act.]

Section 110. Legal Advertising.—Whenever, under the provisions of this act, notice is required to be published in one newspaper, such publication shall be made in a newspaper of general circulation, as defined by the Newspaper Advertising Act, approved May sixteenth, one thousand nine hundred and twenty-nine (Pamphlet Laws one thousand seven hundred and eighty-four), printed in the township, if there is such a newspaper, and, if not, then in a newspaper circulating generally in such township. 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 township. When such notice relates to any proceeding or matter in any court, or the holding of an election for the increase of indebtedness, or the issue and sale of bonds to be paid by taxation, such notice shall, also, in counties of the second, third, fourth and fifth classes, be published in the legal newspaper, if any, designated by the rules of court of the proper county for the publication of legal notices and advertisements, unless such publication be dispensed with by special order of court: Provided, however, That auditors' statements, summaries of auditors' statements, or *advertisements inviting proposals for public contracts and for bids for materials and supplies, shall be published only in newspapers of general circulation, defined as aforesaid.

* "advertisement," in original.

ARTICLE II

CLASSIFICATION, [AND] CREATION,
CONSOLIDATION AND RE-ESTABLISHMENT
OF TOWNSHIPS OF THE SECOND CLASS

(a) Classification of Townships

Section 201. *Classification of Townships.*—The townships now in existence and those to be hereafter created are divided into two classes. Townships of the first class shall be those having a population of at least three hundred inhabitants to the square mile, which have heretofore fully organized and elected their officers and are now functioning as townships of the first class, or which may hereafter be created townships of the first class in the manner provided by the laws relating to townships of the first class. All townships not townships of the first class shall be townships of the second class. A change from one class to the other shall hereafter be made only as provided by this act, or the laws relating to townships of the first class.

(b) [Creation] Consolidation of Townships

Section 205. *Manner in Which Townships May Be [Created] Consolidated.*—The courts of quarter sessions may, upon the presentation of petitions as hereinafter provided, [create new townships by the consolidation of] *consolidate* two or more townships of the second class located in the same county.

Section 206. *Petitions.*—(a) Petitions for [creation] *consolidation* of townships, in the manner hereinbefore provided, shall be signed by *registered* electors equal in number to at least five per centum [of the highest total vote cast for candidates for any office in the townships affected, at the last preceding municipal election] *of such electors of each of the townships proposed to be consolidated at the time of the filing of such petition.* Such petition shall be [sworn to and] *subscribed and sworn to* by at least three of the signers.

(b) Petitions for the consolidation of townships may also be presented when signed by a majority of the supervisors of each of the townships proposed to be consolidated and [sworn to and] *subscribed and sworn to* by at least one supervisor from each such township.

Such petitions *in either event* shall set forth the name of any proposed new township, and shall specify the reasons for such consolidation. Each such petition shall be accompanied by an accurate map or plot prepared by [an] *a registered surveyor or engineer* showing the lines of the new township, and the present division line be-

tween such townships. Where natural marks are on such lines they shall also be shown.

Section 207. Confirmation [Nisi] of Petition; Notice of Filing.—Upon the presentation of any such petition, the same shall be confirmed nisi and the court shall, by its order, require such notice to be given by the petitioners to the residents and supervisors of the townships affected as it deems proper. *If no exceptions, as herein-after provided, are filed to such petition, the court after the expiration of thirty days shall confirm it absolutely.*

Section 208. Exceptions; [Confirmation Absolute of Petition] *Hearing and Action Thereon*.—Within thirty days after the filing of such petition, any [taxpayer] *registered elector* of the townships affected may file exceptions to such petition, questioning the sufficiency of the number of signers, or the legality of any signatures, or the accuracy or sufficiency of the map or plot attached thereto. The court, upon the filing of any exceptions, shall fix a day for hearing, of which such notice shall be given as the court may direct. At such hearing, the court shall hear all parties interested and their witnesses. *If the exceptions in the opinion of the court are not sustained, it shall dismiss the same and confirm the petition absolutely.* If the exceptions in the opinion of the court are sustained and the court deems the petition or map or plot amendable, it may permit either the petition or the map or plot, or both, to be amended; and when so amended, it shall confirm the [same] *petition* absolutely, but if it shall deem the [same] *petition or the map or plot* not amendable, it shall dismiss the petition.

Section 209. Elections.—When any petition is confirmed absolutely, the court shall order an election held on the question of the consolidation of such townships, which shall be held on the day of the next *primary, general* or municipal election occurring at least sixty days after such order of court. Such election shall be held at the regular polling places in the townships affected. At any such election all of the [qualified] *registered* electors of the townships affected by such consolidation shall have the right to vote. The ballot at any such election, *or ballot labels in the event voting is by machine*, shall be furnished by the county [commissioners] *board of elections*, and the question to be placed thereon shall be framed and printed [on the ballots] as provided by the election laws of the Commonwealth.

Section 210. Notice of Election.—The [constable] *constables* of the townships affected, or if there be no constable, then one of the supervisors designated by the court, shall give at least fifteen days' notice of the time and place of holding such election by posting not less

than six printed handbills in at least six public places in each of such townships. The notice of election shall contain a statement of the townships to be affected thereby, that it is proposed to make a consolidation, and the court may prescribe the form of the notice and include therein such other matters as the circumstances of the individual case may render desirable.

Section 211. Return of Election; Decree.—The election officers, after the polls have been closed, shall count the ballots and certify the number of votes cast for and against such consolidation to the [clerk of the court of quarter sessions] *county board of elections*, who shall tabulate and compute the same and lay the result before the court. If it shall appear that a majority of the votes cast in each of the townships affected are in favor of the consolidation of [two or more] *such* townships, the court shall order and decree the new township agreeably to the name and lines set forth in the petition, and the government of the new township shall be organized and become effective on the first Monday of January succeeding such election. If a majority of the votes cast in any of the townships affected, are against the consolidation of such townships, no further action shall be had upon said proceedings. No new proceeding shall be considered for a period of two years.

Section 212. Boundary Monuments.—All angles and corners in the lines of any such new township, not fixed by public highways, natural boundaries, or monuments, shall be marked by stone monuments placed at such angles or corners unless it is impractical to do so, in which case the court shall direct how the same shall be marked, and, for cause shown, the court may direct other monuments to be placed on said lines. The cost of such monuments and the placing thereof shall be paid by the new township; and it shall be the duty of the supervisors thereof to cause said monuments to be put in place not later than one year after the new township is formed.

Section 213. Classification of New Townships.—The new township [created] shall be a township of the second class, unless and until by subsequent proceedings, in accordance with laws relating to townships of the first class, and having the required population, it shall be created a township of the first class.

Section 214. Costs.—When [a new township is created] *townships are consolidated*, [as hereinbefore provided] the cost of the proceedings shall be paid by the new township, and where any petition is dismissed or a majority of the electors of any one or more townships shall vote against the consolidation of any such township, the cost of the proceedings shall be paid by the townships proposed to be consolidated.

Section 215. Property Rights and Liabilities Where Townships Consolidated.—After the consolidation of two or more townships, the rights, privileges and franchises of each of the townships, and all property, real, personal and mixed, and all debts due on whatever account, and other things in action belonging to each of such townships, shall be vested in the new township. The title to real estate vested in either of such townships shall not revert or be in any way impaired by reason of such consolidation. All rights of creditors or liens shall be preserved, and all debts and liabilities of either of such townships shall attach to such new township and be in force against it.

(c) Reestablishment of Townships of the Second Class

Section 225. Because of Loss of Population.—Townships of the first class no longer having a population of three hundred to the square mile may be reestablished as townships of the second class, in the manner provided by laws governing townships of the first class.

Section 226. By Vote of [Qualified] *Registered* Electors.—A township of the first class may, irrespective of population, be reestablished a township of the second class in the manner hereinafter provided.

The board of commissioners of such township on its own initiative may, or within fifteen days after the receipt of a petition signed by at least [twenty-five] *five* per centum of the [qualified] *registered* electors of such township shall, pass a resolution and record it on its minutes, submitting the question, of whether such township of the first class shall be reestablished a township of the second class, to the [qualified] *registered* electors of such township.

At the *primary*, general or municipal election occurring at least ninety days after the passage of such resolution, the question, whether such township of the first class shall be reestablished a township of the second class, shall be submitted to the voters of the township; and the county [commissioners] *board of elections* shall cause to be printed, on separate ballots, *or in case voting is by machine on ballot labels*, to be used in such township at such election, a proper question framed in accordance with the election laws of the Commonwealth.

The election officers shall compute the votes cast at the election and make return thereof to the [clerk of the court of quarter sessions of the] county *board of elections*, wherein such township is situate, [who] *which* shall compute the same and certify the result thereof to the county commissioners and the board of township commissioners of such township *and to the clerk of the*

court of quarter sessions. If a majority of the votes cast at any such election shall be in favor of the re-establishment of such *township as a township of the second class, the government of the township of the second class shall be organized and become effective on the first Monday **of January next succeeding such election, at which time the terms of the officers of the township of the first class shall cease and terminate, and the officers appointed by the court for such township, as hereinafter provided, shall take office. If a majority of the votes cast at any such election shall be in favor of remaining a township of the first class, no further proceeding shall be had for a period of two years after which proceedings de novo may be had.

Section 2. The said act is hereby amended by adding to Article II thereof a new division and section as follows:

Act of May 1,
1933 P. L. 103,
amended by
adding new sub-
division (d) to
Article II.

(d) *Creation of Townships of the Second Class by Annulment of Borough Charters*

Section 230. *Because of Annulment of Charter of Borough.—Townships of the second class may be created by the annulment of a charter of a borough in the manner provided by laws governing boroughs.*

Sections 235 to
414, act of May
1, 1933 P. L.
103 reenacted,
revised and
amended.

Section 3. Sections 235 to 414 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

[(d)] (e) *Officers for New Townships*

Section 235. *Appointment and Election of Officers of New Townships.—Whenever a new township [is created by] results from the consolidation of townships, or is created as a result of the annulment of the charter of a borough, or when a township is reestablished, the court of quarter sessions shall appoint the elective officers for the new township, and fix the polling place or places in such new township. The officers so appointed shall hold their offices until the first Monday of January following the next municipal election occurring at least ninety days after such appointments. At such municipal election, an assessor and a tax collector shall be elected for regular four-year terms, if such election occurs in the year when such officers are elected for regular terms, and if not, then such officers shall be elected for terms of two years each and their successors shall be elected for four-year terms. At said first municipal election, one supervisor and one auditor shall be elected for terms of six years each, one supervisor and one auditor for terms of four years each, and one supervisor and one auditor for terms of two years*

* "townships," in original.

** "in," in original.

each. All such officers shall take office on the first Monday of January next following their election.

[(e)] (f) [Certificate of Creation of Townships]
Certificates to be Furnished to State Departments

Section 240. *Certificates of Clerk of Court; Fee; Penalty.*—When a township of the second class results from the consolidation of two or more townships or is created or reestablished, the clerk of the court of quarter sessions of the county, within thirty days, shall certify [such creation or reestablishment] a copy of the record thereof in said court to the Secretary of Internal Affairs and the Department of Highways of the Commonwealth. [The] For such services the clerk shall be allowed a fee of [one dollar for his services] three dollars and fifty cents, to be paid as part of the costs of the proceedings.

[The clerk of the court of quarter sessions shall also certify to the State Department of Highways the creation or reestablishment of all such townships within thirty days after the establishment of such township. For each such certificate furnished, the clerk shall receive a fee of one dollar, to be paid by the State Treasurer upon warrant of the Auditor General. The failure or neglect of any] Any clerk who shall fail or neglect or refuse to furnish such [certification] certifications, or either [to the Department of Highways] of them, as herein required, shall [be deemed a misdemeanor and] upon conviction [such clerk shall] thereof, in a summary proceeding, be sentenced to pay a fine of not more than fifty dollars, and in default of the payment of such fine and costs, undergo imprisonment of not more than ten days.

ARTICLE III

TOWNSHIP LINES AND BOUNDARIES

Section 301. [Center Line of Navigable Stream as Boundary] *Stream Boundaries.*—Whenever any township is bounded by the nearest margin of any navigable stream, and the opposite township, borough or city, as the case may be, is also bounded by the nearest margin of the same stream, the middle of such stream shall be the boundary between such [townships or] township and [any other] the opposite township, borough or city. Nothing contained in this section shall be construed to repeal any local or special law providing to the contrary.

Section 302. [Petition to Alter or Ascertain Township Lines and] *Establishment of Boundaries.*—The courts of quarter sessions may, upon the presentation

of a petition, (a) alter the lines of [two or more] *a township and any* adjoining [townships] *township, borough, or city* so as to suit the convenience of the inhabitants thereof; (b) cause the lines or boundaries of townships to be ascertained and established; and (c) ascertain and establish disputed lines and boundaries between two or more townships or between townships and cities or boroughs. When any such petition is presented, the court may require the petitioners to file a bond in a sufficient sum to secure the payment of all costs of the proceeding.

Section 303. [Appointment and Report of Commissioners] *Petition to Court; Commissioners Report.*— Upon application by petition, [to the court for any of the purposes set forth in the last preceding section] the court shall appoint three impartial citizens, one of whom shall be a [civil] *registered surveyor or engineer*, to inquire into the prayer of the petition. After having given notice to parties interested as directed by the court, the commissioners shall hold a hearing and view the [said] lines or boundaries; and they, or any two of them, shall make a plot or draft of the lines and boundaries proposed to be altered or ascertained and established if the same cannot be fully designated by natural lines or boundaries. The commissioners, or any two of them, shall make report to the court, together with their opinion of the same. Upon the filing of any such report, the same shall be confirmed nisi, *and the court may, by its order, require such notice to be given by the petitioners to the parties interested, as it deems proper.*

Section 304. *Exceptions and Procedure.*— Exceptions to any such report may be filed by any person *or political subdivision* interested within thirty days after the filing of the report, and the court may thereupon fix a day for the hearing of such exceptions, of which [hearing] such notice shall be given as the court [shall] *may* direct. After hearing, the court shall have power to sustain such exceptions or to dismiss them and confirm the report, or *to* refer the report back to the same or new commissioners with like authority to make another report, on which like legal proceedings may be had. Where no exceptions are filed within thirty days after the filing of the report, the court shall confirm the same absolutely. When any report is confirmed absolutely, the court shall enter a decree altering or ascertaining and establishing the lines and boundaries as shown in said report.

Section 305. *Monuments.*— Whenever any such township line or boundary is altered or ascertained and

established the court shall cause the same to be *appropriately* marked with stone monuments placed at intervals not exceeding fifteen hundred feet.

Section 306. - [Pay] *Compensation and Expenses of Commissioners, [Civil] Engineer, and Chaincarriers; Costs.*—The [pay] *compensation and expenses* of commissioners appointed to alter or ascertain and establish township lines shall be [ten dollars, the pay of the civil engineer shall be twenty dollars, and the pay of * chaincarriers shall be five dollars, for each day necessarily employed, and five cents per mile for each mile necessarily traveled in the discharge of their duties] *in the amount approved by the court.* The court shall by its order provide how the costs and expenses of any such proceeding, including the furnishing and placing of monuments, shall be paid, and may assess them against *the petitioners, any township [and] or municipalities interested, or any of them.*

Section 307. Adjustment of Indebtedness.—Whenever the boundaries of any township have been altered or ascertained and established, [upon application of the supervisors, commissioners, or the authorities of any school district or poor district] the court of *quarter sessions* [common pleas sitting in equity] may adjust the taxes, debts and expenses for township, municipal, [poor] and school purposes between the townships, municipalities, [poor] and school districts affected.

ARTICLE IV

ELECTION OF OFFICERS; VACANCIES IN OFFICE

(a) General Provisions

Section 401. Township Officers to Be Electors.—No person shall be eligible to any township office unless he is [an] *a registered* elector of the township for which he is chosen.

Section 402. Officers to Be Elected.—The electors of each township shall elect (a) three [township] supervisors, (b) one [township] assessor, (c) three [township] auditors, and (d) one tax collector. *No person shall at the same time hold more than one elective township office.*

(b) Election of Officers

Section 410. Supervisors.—At each municipal election, the [qualified] electors of each township shall elect one [township] supervisor to serve for a term of six years from the first Monday of January next following his election.

Section 411. Auditors.—At each municipal election, the [qualified] electors of each township shall elect one

* "the," in original.

[township] auditor to serve for a term of six years from the first Monday of January next following his election.

No auditor shall at the same time hold any other elective or appointive township office.

Section 412. Assessor.—At the municipal election in the year one thousand nine hundred and [thirty-three] **forty-nine*, and at the municipal election every four years thereafter, the [qualified] electors of each township shall elect one [township] assessor to serve for a term of four years from the first Monday of January next following his election.

Section 413. [Election Assessors Saved] *Assessors not Elected in Certain Counties*.—The provisions of the preceding section, relating to the election of assessors, shall not [repeal nor affect the provisions of any act providing for the election of assistant or registry assessors for the performance of duties relating to elections, nor] authorize the election of assessors for taxation purposes in counties [having] *where* boards for the assessment and revision of taxes *are authorized by law to appoint assessors*.

Section 414. Tax Collector.—At the municipal election in the year one thousand nine hundred and [thirty-three] **forty-nine*, and at the municipal election every four years thereafter, the [qualified] electors of each township shall elect one tax collector to serve for a term of four years from the first Monday of January next succeeding such election.

Section 415, act of May 1, 1933 P. L. 103, repealed.

Sections 420 to 541, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 4. Section 415 of the said act is hereby repealed.

Section 5. Sections 420 to 541, inclusive, of the said act are hereby reenacted, revised and amended to read as follows:

(c) Vacancies in Office

Section 420. Supervisors.—If the electors of any township shall fail to choose a [township] supervisor, or if any person elected to such office shall neglect or refuse to serve therein, or if a vacancy shall occur in the office by death, resignation, *removal from the township*, or otherwise, the two remaining supervisors may appoint a successor to [fill] *hold* the office for the unexpired term. When a vacancy is so filled, the supervisors shall, within fifteen days thereafter, certify such appointment to the clerk of the court of quarter sessions.

If the two remaining supervisors, in the event of a vacancy as aforesaid, shall be unable to agree on such appointment for a period of thirty days after such vacancy occurs, the court of quarter sessions shall, upon

* "forty-seven" in original.

the presentation of a petition signed by a supervisor and by not less than [ten voters] *five registered electors*, [who are owners of real estate in the township] appoint a person to [fill the vacancy] *hold such office* for the unexpired term.

Section 421. Auditors.—When a vacancy occurs in the office of [township] auditor in any township by reason of death, resignation, removal from the township, or otherwise, the court of quarter sessions shall, upon the petition of *not less than five registered electors*, appoint a suitable person to [fill such vacancy] *hold such office* for the unexpired term of the person whose place he is appointed to fill.

Section 422. Assessor.—Vacancies in the office of assessor in townships shall be filled in the manner provided by law.

Section 423. Tax Collector.—If the electors of any township [of the second class] shall fail to choose a tax collector, or if any person elected to such office shall fail to give the required bond or [shall fail] to take the required oath, or if a vacancy shall occur in the office by death, resignation, *removal from the township*, or otherwise, the [county commissioners in *either event] *court of quarter sessions of the county*, upon presentation of a petition of [any citizen who is a resident] *the supervisors or not less than five registered electors* of the township, setting forth the facts, or upon [their] *its* own initiative, shall appoint a [resident] *registered elector* of the township [to fill the vacancy for the unexpired term of the person whose place he is appointed to fill] or a corporation duly qualified and legally authorized to transact a fiduciary business in the Commonwealth of Pennsylvania [and] whose principal place of business is located in the county where said township is located, *to hold the office for the unexpired term of the person whose place he or it is appointed to fill.*

[If a] *The person or corporation* [be] so appointed [it] shall give [such] bond as [the county commissioners may fix, to be approved by the court of quarter sessions] *provided by law.*

In cases [when] *where* the person elected to the office shall fail to give bond or to take the required oath, the [county commissioners] *court of quarter sessions*, before making the appointment, shall declare the office vacant.

Whenever a vacancy exists in the office of tax collector and no person resident within the township or *corporation qualified and located as herein above set forth* [can be] *has been* found within thirty days to accept the appointment to fill such vacancy, [the county

* "any," in original.

commissioners may appoint the county treasurer as tax collector.

Where the county treasurer is so appointed, he shall have authority to appoint a deputy to assist in the collection of the taxes set forth in the duplicates delivered to him. The county treasurer shall be entitled to retain for his own use so much of the commissions payable for the collection of said taxes as may be required for the payment of his deputy and the premium on his bond, and shall not be required to pay the same over to the county, but any commissions over and above such costs shall belong to the county to reimburse the county for office rent, light, heat, telephone service, compensation, insurance, supplies, postage, and equipment. The salary board of the county, and where there is no salary board then the county commissioners, shall fix the compensation of any deputy appointed.

If the county treasurer so appointed shall refuse to accept the appointment, the county commissioners may appoint any suitable resident of the county to perform the duties of tax collector for the unexpired term, and, if no such person can be found within the county to accept appointment as tax collector for the township] the county, [commissioners shall retain the duplicate of the county tax and notify the township and school district to deliver their respective duplicates to the county commissioners, unless] the township *and* the [or] school district [desires to] *shall* collect their respective taxes directly through their respective treasurers, [as tax collectors or through collectors appointed by them which they shall have authority to do.] *or in case of school districts through their secretaries.* No such county, township or school treasurer *or secretary* shall be required to give additional bond, *unless required by the taxing authority*, but shall have all the powers and perform all the duties [herein] imposed on tax collectors. [The county commissioners shall, in any such case, have the power to collect the taxes for the county and for any township and school district and shall perform all the duties and have all the powers of tax collectors and shall have * power to appoint a deputy, as herein provided where the county treasurer is appointed as tax collector, and to fix his compensation. Taxes collected by the commissioners shall be paid over to the county treasurer, who shall pay to the township or school district any taxes received for their use, less such amount as is allowed as a commission for the collection of taxes, which shall be retained for the use of the county in order to reimburse the county for the costs and expenses incurred by the county in collecting such taxes. The county commissioners shall not be re-

* "the," in original.

quired to give any bond for the duties herein imposed nor shall they receive any compensation for collecting such taxes. The county commissioners shall, where they collect taxes as herein provided, have all the powers and perform the duties vested in collectors of county, township, and school taxes.] *Such treasurers and secretaries for performing such duties shall be entitled to the compensation provided by law for the collection of such taxes.*

ARTICLE V

TOWNSHIP OFFICERS

(a) General Provisions

Section 501. Oath of Office.—Every person elected or appointed to any township office in any township shall, before entering upon the duties of his office, take and subscribe an oath or affirmation before some person having authority to administer oaths, to support the [Constitution] *Constitutions* of the United States and of this Commonwealth, and to perform the duties of his office with fidelity. A copy of such oath or affirmation shall, within ten days thereafter, be filed with the township secretary.

Section 502. Bonds.—When any officer or employe of any township is required to give bond for the faithful performance of his duties, [and such bond is required to be executed by a surety company] the township may pay the premium on such bond. No auditor or supervisor of the township shall become a surety on the bond of [the tax collector or treasurer of the] *any township officer.*

Section 503. Penalty for Failure to Perform Duties.—If any township officer refuses or neglects to perform his duties, the court of quarter sessions, upon complaint in writing by [twenty-five citizens, owners of real estate residing in] *five per centum of the registered electors* of the township, [or district] may issue a rule upon such officer to show cause why his office should not be declared vacant and another appointed in his stead. Such rule shall be made returnable not less than two weeks from its date of issue. Upon hearing, and proof that the facts alleged in the complaint are true, the court may declare the office vacant and appoint another in his stead, to hold office during the term of the officer deposed, *or to make such other order as to the court may seem just and proper.*

Section 504. Road Complaints.—If [such] *any* complaint shall allege that the public roads and highways of any township are not maintained in accordance with law, the court may appoint three persons, who shall

examine said highways and report to the court their findings. In all such cases the complainants shall first enter security, in such sum as the court may fix, to pay all costs.

(b) Township Supervisors, Township Superintendent, and Roadmasters

Section 510. Supervision of [Road] Affairs.—The general supervision of [road] *the* affairs [in every] of *the* township shall be in the hands of three [qualified] *registered* electors of the township, who shall be styled township supervisors.

Section 511. Organization Meeting; Appointment of Secretary and Treasurer.—The supervisors of each township shall meet, at a convenient time and place, on the first Monday in January of each year. The township supervisors shall organize as a board by electing one of their number as chairman. The board shall appoint a treasurer and a secretary, who shall be the same person, and who may or may not be a member of the board, except where the board selects a trust company or a banking institution to act as treasurer, in which case it [may] *shall* elect an individual as secretary.

Section 512. Monthly Meetings; Quorum, Rent and Expenses.—The township supervisors shall meet for the transaction of business at least once each month, at a time and place to be fixed by the board, but they shall not be paid for more than sixteen meetings in any one year, *except in any township where, on account of the exercise of governmental functions other than those relating to roads, more meetings are necessary, in which case, the number of meetings for which the supervisors may be paid may, with the prior approval of the auditors of the township, be increased to any number, not exceeding twenty-four in any year.* Two members shall constitute a quorum. Necessary expenses incurred in such meetings, including office rent, stationery, light and fuel, shall be paid out of the *general township* [road funds] *fund.*

Section 513. Minutes and Records.—The board of township supervisors shall keep minutes of its proceedings, and such other books as they may find necessary in the performance of their duties. All such books shall be open for the inspection of any *elector, or taxpayer, or his, her or its representative, or any representative of the Department of Internal Affairs and the Department of Highways* at all reasonable times, and shall be submitted to the township auditors when they meet to audit the accounts of the treasurer and other township officers. The township supervisors shall deliver such books, papers, and accounts to their successors.

Section 514. Road Districts; Superintendents and Roadmasters.—The board of township supervisors, immediately after their organization, shall divide the township into one or more road districts. They shall employ a superintendent for the entire township or a roadmaster for each district. *Every superintendent and roadmaster, so employed, must be a person physically able to work on and maintain the roads.* Township supervisors may require such superintendents or roadmasters to give bond, with approved security, for the faithful performance of their duties. The superintendent or roadmasters shall be subject to removal by the board of supervisors. The supervisors shall fix the wages to be paid, either per hour, per day, per week, semi-monthly or monthly, to the superintendent or roadmasters and laborers for work on the roads and bridges, *which wages shall not exceed wages paid in the locality for similar services.*

This section shall not prohibit the township supervisors from being employed as superintendents or roadmasters, *or as laborers, if physically able to work on and maintain the roads.* In such [case] *cases* they shall not [be required to] employ a superintendent or *roadmasters *and their compensation shall be fixed as hereinafter provided.*

[No roadmaster or superintendent shall be the husband, father, brother, son, stepson, father-in-law or son-in-law of a township supervisor.]

Two or more townships may [join and] appoint the same person as superintendent.

Section 515. Compensation of Supervisors.—Supervisors shall receive from the *general* township [road funds] *fund*, as compensation, not less than two dollars and fifty cents nor more than four dollars for each meeting which they attend. The amount of the compensation for attending meetings shall be determined by the township auditors. The township auditors shall also allow to the supervisors reasonable compensation for making a semi-annual inspection of **the roads and bridges. The compensation of supervisors, when [overseeing or working on roads] *acting as superintendents, roadmasters or laborers*, shall be fixed by the township auditors [and shall be not less than three nor more than six dollars per day] *either per hour, per day, per week, semi-monthly or monthly, which compensation shall not exceed compensation paid in the locality for similar services, and such other reasonable compensation for the use of vehicular equipment, when required and actually used, as the auditors shall determine and approve; but no su-*

* "roadmaster," in original.

** "the," omitted in original.

pervisor shall receive compensation as a superintendent or roadmaster for any day he receives compensation for attending a meeting of supervisors, unless such meeting is held during the nighttime.

Section 516. [Powers and] Duties of Supervisors, Township Superintendents, and Roadmasters.—The township supervisors, or the supervisors acting as [superintendent] *superintendents* or roadmasters, shall—

(a) Have the general care and superintendence of the improvement of the [highways] *roads* and bridges in the township, except as otherwise specially provided.

(b) Cause such [highways] *roads* and bridges to be kept in repair and reasonably free from all obstructions, and give the necessary directions therefor.

(c) Inspect all [highways] *roads* and bridges during the months of April and October of each year.

(d) Divide the township into as many [sections] *districts* as may be *deemed* necessary for the maintenance and repair of the [highways] *roads* and the opening of [highways] *roads* obstructed by snow.

(e) Employ or hire such persons, [teams and implements] as may be necessary for the maintenance and repair of [highways] *roads* and bridges, and [the] *snow* removal, [of obstructions caused by snow] and provide for the organization and supervision of the persons so employed, and work on the roads themselves when directed to do so by the board of supervisors. Records shall be kept, and reports made and filed, giving the names of *all* persons employed, including supervisors, superintendent or roadmasters, dates on which work was done, *and the number of hours worked* with compensation paid to each person and the capacity in which he is employed.

(f) Construct and keep in repair all sluices and culverts, and keep the waterways, bridges and culverts open.

(g) Cause loose stones lying in the beaten track of every [highway] *road* to be removed. Stones so removed shall be conveyed to some place from which they will not work back or be brought back into the track by other implements used in repairing or maintaining such highways.

(h) Attend road meetings and conventions when directed to do so by the board of supervisors.

(i) Perform such other duties and have such other powers *with respect thereto* as may be imposed or conferred by law or the rules and regulations of the Department of Highways.

The roadmasters or superintendents or supervisors, acting in either capacity, shall—

(j) Report monthly to the board of supervisors, [which report shall contain the matter in the form to be prescribed] *such information as may be required* by the Department of Highways, *in the form prescribed by the department.*

(k) Inspect all [highways] *roads* and bridges at such times as the township supervisors shall direct, except during the months of April and October.

(l) Have power to relocate, widen, deepen, and straighten the channels of streams, and rip, rap, and otherwise protect the banks of streams in order to protect roads, prevent erosion, and prevent floods in the township: [or parts thereof] Provided, That the consent of the [Power and] *Water and Power Resources Board* to any such project has first been secured.

(m) When authorized to do so by general or special order of the township supervisors, to do or cause to be done all work necessary to carry out the responsibilities imposed upon the township supervisors by subsections (a), (b), (e), (f), (g), and (i) of this section.

Section 517. Road Contracts.—The board of township supervisors may make a contract for the improvement and keeping in repair of not more than ten miles of road. No such contract shall extend over a period of more than four years, nor shall it be given unless approved of and signed by at least two members of the board of township supervisors. Every contractor for road work shall give bond for the amount of such contract, and sign specifications furnished by the township supervisors for the building and care of such contract roads.

Section 518. Annual [Reports to State Department of Highways] *Township Report; Duties of Supervisors.*—The board of [township] supervisors [shall] annually, on or before the first day of February in each year, [make a sworn statement to the State Department of Highways, on blanks furnished to them by the department, of the whole amount of tax levied during the preceding year for road purposes, and the total amount of road taxes collected during the year. They shall specify in such report the amount expended for maintenance or repairs of roads, for opening and building new roads and for macadamizing or otherwise permanently improving roads, the number of miles of roads thus made, and the total number of miles of township roads in the township. Such report shall also contain the names and addresses of the chairman, members, and secretary and treasurer of the board, and such other

matters and things as the State Department of Highways may require.] *shall furnish to the township auditors such accurate information concerning the construction, reconstruction, maintenance and repair of the roads, the repair and purchase of equipment and machinery, and road mileage, as may be required, in order to enable the auditors to make the annual township report hereinafter prescribed.*

Section 519. Applications for County Road Aid.—Whenever the owners of the majority of the assessed valuation of real property within any township desire any principal road [or highway] within the township to be improved and maintained at the joint expense of the county and township, they may petition the supervisors of the township for said improvement, and require them to make application to the county commissioners for such improvement and maintenance in accordance with the provisions of existing law.

In all cases where the township supervisors refuse to act upon, or unduly delay action on, any petition for the improvement and maintenance of any road, [or highway] as herein provided, any [citizen] *registered elector or taxpayer* of the township or county may, by petition, present the facts of the matter to the court of quarter sessions, requesting the court to order such action thereon as the case may require. If after due hearing had before said court it shall appear that the truth of the matters alleged in the petition are sustained, the court shall make an order directing the township supervisors to forthwith act upon said application or applications, and *that the said application or petition for the improvement be forthwith forwarded to the county commissioners.

Section 520. [Penalty] Interest in Contracts and Purchases; *Penalty.*—[It is unlawful for any] *Any* township supervisor, superintendent, or roadmaster [to be] *who is knowingly* interested, directly or indirectly, in any purchase made or contract relating to roads and bridges, except as provided for in this act, or [to furnish] *for a compensation furnishes* any materials therefor [. Any such person knowingly violating the provisions of this section shall be] *is* guilty of a misdemeanor, [. Upon] *and upon* conviction thereof, [, any such person] shall be sentenced to pay a fine not exceeding five hundred dollars [(\$500)] or [to be imprisoned for a term] *undergo imprisonment* not exceeding six months, or both, and shall forfeit his office.

Section 521. [Penalty] Violation of Act Generally; *Penalty.*—*Any* township supervisor, township superintendent, roadmaster, or contractor, employed to work

* "that," omitted in original.

on the roads *and* bridges [and highways] of any township, who [shall violate] *violates* any of the provisions of this act, other than those for the violation of which specific penalties are provided, or who [shall fail, neglect or refuse] *fails, or neglects, or refuses* to carry out the provisions of this act, shall, upon conviction *thereof* in a summary proceeding, be sentenced to pay a fine of not more than fifty dollars, *and in default of the payment of such fine and costs, shall be sentenced to imprisonment of not more than twenty-five days.* All such fines shall be paid to the township treasurer [for the use of the road] *and credited to the general township fund.*

(c) Township Treasurer

Section 530. Bond.—The treasurer appointed by the board of township supervisors, if an individual, shall give bond, with at least two sufficient sureties or a surety company to be approved by *and filed with* the auditors of the township, conditioned that the treasurer shall well and truly account for and pay over all moneys collected or received for the township, and all moneys paid by the State *to the township* and received by him, only upon *a written order signed by two members of the board of supervisors; for the delivery to his successor in office of all books, papers, and documents; for the payment to [him] *such successor* of any balance of money belonging to the township that may remain in his hands; and for the faithful performance of the duties of his office. [The bond of the treasurer shall be filed with the auditors of the township.]

Section 531. Compensation.—The township treasurer shall receive, as compensation for his services, a certain percentage on all moneys received and paid by him, which rate shall be [settled] *determined* by the supervisors of the townships, with the [approbation] *approval* of the township auditors.

[In no case shall the combined] *Except as otherwise provided in section 540 hereof, the* amount paid to [the secretary and] treasurer *as treasurer and secretary, shall not exceed* [two] *three* per centum of the money paid out by the treasurer, [except when the amount be] *but it shall not be less than* [twenty-five] *fifty* dollars [(\$25.00)]; and the calculation of such maximum compensation shall not include any percentage upon money paid out by the treasurer for the repayment of loans, notes, certificates, or other evidences of indebtedness, or other borrowed moneys.

Section 532. Duties.—The township treasurer shall receive all moneys due the township and deposit the same promptly upon receipt thereof in a bank, banking

* "a," omitted in original.

institution, or trust company in the name of the township. He shall keep distinct *and accurate* accounts of all sums received from taxes and other sources, which accounts shall [at all times] be open to the inspection of the supervisors *and taxpayers* of the township. He shall pay out all moneys received by him only on orders drawn by the supervisors of the township. All orders shall be on blanks prepared and furnished by the [State] Department of Highways. He shall annually state his accounts, and lay the same, together with the vouchers, before the township auditors for settlement.

Section 533. Use of Special Funds; Penalty.—Whenever any moneys are collected in or received by any township for any special purpose, and are paid into the hands of the treasurer of such township, it shall be unlawful for such treasurer to apply such moneys, or any part thereof, to any purpose other than that for which such moneys were collected *or received*. Every such misapplication shall be a misdemeanor, [Upon] *and upon* conviction [of such offense] *thereof*, the treasurer shall be [punished by] *sentenced to pay* a fine of not less than the amount so misapplied, or [by] *undergo* imprisonment for [not less than three months and] not more than one year, *or both*.

Section 534. Penalty for Failure to Perform Duties.—[If any] *Any* township treasurer [shall neglect or refuse] *who fails or neglects or refuses* to perform any of the duties of his office, *other than those for which specific penalties are provided*, upon conviction *thereof* in a summary proceeding, [he shall be fined in a sum not exceeding] *shall be sentenced to pay a fine of not more than one hundred dollars*, and *in default of the payment of such fine and costs, shall be sentenced to imprisonment of not more than thirty days*, and shall be disqualified from holding the office.

Section 535. Depositories of Township Funds.—The township supervisors may, [on the first Monday of January of each year] *at their annual organization meeting*, or as soon thereafter as is practicable, designate, by resolution, a depository or depositories for township funds, *and fix and approve the security to be furnished by any such depository: Provided, That any such funds deposited with any banking institution of this Commonwealth may be insured with the Federal Deposit Insurance Corporation, or any other corporation hereafter organized by the United States for the purpose of insuring deposits, up to the amount to which such corporation is, or may hereafter be, authorized to insure deposits, in any one name, and where so insured the supervisors shall not require such banking institution to furnish*

additional bond, insurance or security to cover the amount of such deposits so insured. Such designation shall be valid for a period of one year or until such time as another depository or other depositories shall be designated by similar action of the township supervisors.

Such depository, or depositories shall be banks, banking institutions, or trust companies located in the Commonwealth.

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

No township treasurer, complying with the provisions of this section, nor his surety or sureties, shall be chargeable with losses of township funds caused by the failure or negligence of such depository or depositories.

(d) Township Secretary

Section 540. Duties and Compensation.—The secretary in each township shall be clerk to the board of supervisors. He shall keep a record of the proceedings of said officers in a minute book in which he shall also record [the annual reports of the township supervisors, and township auditors, and] all court orders relative to the laying out, opening, and [vacation] *vacating* of roads. The minute book, account book and other financial records shall be carefully preserved by the secretary and shall be turned over to his successor in office. Miscellaneous records and papers of the township other than the minute book and account book may be destroyed with the consent of the supervisors after the lapse of six [(6)] years from the date of such records.

The secretary shall prepare and write the annual tax duplicate of the township, and shall receive such compensation therefor as shall be fixed by the township auditors. The combined amount paid to the secretary and treasurer *for services, exclusive of the compensation for the preparation of the annual tax duplicate*, shall not exceed [two] *three* per centum of the money paid out by the treasurer, [except where the same would amount to] *but it shall not be less than [twenty-five dollars (\$25.00)] fifty dollars*; and the calculation of such maximum compensation shall not include any percentage upon moneys paid out by the treasurer for the repayment of loans, notes, certificates, or other evidences of indebtedness, or other borrowed moneys.

Section 541. Books Furnished by Department of Highways.—The [secretary shall provide] *Department of Highways shall furnish to the secretary a suitable*

book or books for the purpose of entering therein all matters of which he is required to keep a record. [Such books shall be furnished by the State Department of Highways.]

Section 542, act of May 1, 1933 P. L. 103, repealed.

Section 6. Section 542 of the said act is hereby repealed.

Sections 545 to 594, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 7. Sections 545 to 594 inclusive are hereby reenacted, revised and amended to read as follows:

(e) Township Auditors

Section 545. * [Meeting] *Meetings; Duties; Quorum; Surcharges; Compensation.*—The auditors of townships shall meet annually, at the place of meeting of the supervisors, on the day following the day which is fixed by this act for organization of the township supervisors; *and shall organize by the election of a chairman and secretary,* and shall audit, settle, and adjust the accounts of the supervisors, superintendents, roadmasters, treasurer, and tax collector of the township, *and fix the compensations for the current year authorized in sections 515 and 540 hereof.* Two auditors shall constitute a quorum. The auditors shall also make an audit of the dockets, transcripts, and other official records of the justices of the peace to determine the amounts of fines and costs paid over or due the township, and the dockets and records of the justices of the peace shall be open to inspection by the auditors for such purpose.

Any elected or appointed officer, whose act [or neglect] error or omission has contributed to the financial loss of any township, shall be surcharged by the auditors with the amount of such loss, and the surcharge of any such officer shall take into consideration as its basis, the results of such act, error or omission and the results had the procedure been strictly according to law. The provisions hereof limiting the amount of any surcharge shall not apply to cases involving fraud or collusion on the part of such officers, nor to any penalty ensuing to the benefit of or payable to the Commonwealth.

Each auditor shall receive five dollars per diem for each day necessarily employed in the duties of his office, to be paid out of the funds of the township.

Section 546. Subpoenas; Oaths; Perjury.—The auditors of each township may 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] *a witness,* and to compel their attendance, by attachment, in like manner as any court of common pleas may in cases pending before them, and may also compel the production of all books, vouchers, and papers

* “[Meeting],” omitted in original.

relative to such accounts. Such subpoena and attachment shall be issued by a justice of the peace and be served by a constable or auditor of the township. The auditors of each township may administer oaths and affirmations to all persons brought or appearing before them, whether accountants, witnesses, or otherwise. All persons guilty of swearing or affirming falsely on such examination shall be guilty of perjury.

Section 547. Completion, [Publication and] Filing and Publication of [Auditors' Statement; Filing of] *Annual Township Report and Financial Statement.*— [with Department of Internal Affairs] The auditors shall complete their audit, settlement, and adjustment [within as short a time as possible] *prior to March first of each year*, and in no case shall more than twenty days be expended on such audit. [They shall, within ten days thereafter, publish, by advertisement in at least one newspaper of general circulation printed in the township or county, and by posting at least five copies in public places in the township, a concise itemized statement of the receipts and expenditures of the several officers for the preceding fiscal year. They shall also, within ten days thereafter, file a copy of such statement with the secretary, and another copy of such statement with the clerk of the court of quarter sessions. When any two offices are exercised by the same person, only one statement shall be required.]

On or before March first of each year the [The] auditors shall [also annually] make a report, *as herein-after provided*, of the [financial condition] *affairs* of the township, *executed copies of which report shall be forth-with filed by the secretary of the auditors with the secretary of the township, the clerk of the court of quarter sessions of the county, * [to] the Department of Internal Affairs, and the Department of Highways.* [within sixty days after the close of the fiscal year] *Each copy of such report shall be signed by each auditor, and duly verified by the oath of [one of the auditors] the secretary of the auditors.* Any [auditor] *secretary of auditors*, refusing or wilfully neglecting to file such township report, *as hereinbefore provided, or to publish the financial statement herein required*, shall, upon conviction thereof in a summary proceeding, [brought at the instance of the Department of Internal Affairs] be sentenced to pay a fine of five dollars for each day's delay beyond [said sixty days] *the last day for filing such report, and costs, or in default of the payment of such fine and costs, be sentenced to imprisonment not exceeding ten days.* [All fines recovered shall be for the use of the Commonwealth.]

* "[to]," omitted in original.

The township report [to the Department of Internal Affairs] shall be presented on a uniform form, prepared and furnished as [herein] hereinafter provided.

The township report shall contain the names and addresses of the chairman, members and secretary-treasurer of the board of supervisors of the township, a statement of the receipts of the township from all sources, and of all accounts and revenue which may be due and uncollected at the close of the fiscal year, a detailed statement of the disbursements of the township during the fiscal year for the construction, reconstruction, maintenance and repair of the roads, for the purchase and repair of road equipment and machinery, including a record of all purchases of material, equipment and machinery for road purposes, involving an expenditure of less than five hundred dollars, and for all other activities of the township, the number of miles of road opened, built and permanently improved, and the total number of miles of road in the township, a statement of the balance in the township treasury at the beginning of the fiscal year, a statement of the resources and liabilities of the township at the end of the fiscal year, a detailed statement of the indebtedness of the township at the close of the fiscal year, the provisions made for the payment thereof, together with the purposes for which it was incurred, a statement of the cost of ownership and operation of each and every public service industry, owned, maintained or operated by the township, and such more specific information, as may be required as hereinafter provided.

On or before March tenth of each year, the auditors shall publish, by advertisement, once in at least one newspaper of general circulation published in the township, or if no such newspaper is published in the township, then in such a newspaper circulating in the township, a concise financial statement setting forth the balance in the treasury at the beginning of the fiscal year, all revenues received during the fiscal year by major classifications, all expenditures made during the fiscal year by major functions, and the current resources and liabilities of the township at the end of the fiscal year, the gross liability and net debt of the township, the amount of the assessed valuation of the township, the assets of the township with the character and value thereof, the date of the last maturity of the respective forms of funded debt, and the assets in the sinking fund. Such publication shall be deemed compliance with the provisions of the Municipal Borrowing Law, which requires the corporate authorities of townships to publish an annual statement of indebtedness.

If any township has a population of less than two hundred, as shown by the last preceding decennial census of the United States, the auditors may post five copies of the above financial statement in public places in the township in lieu of publication in a newspaper.

Section 548. Cancelling Orders.—The auditors shall cancel all orders, [and] vouchers *and certificates of indebtedness* presented to them, which they find have been paid, by writing the word “audited” on the face thereof.

Section 549. Penalty for Failure to Perform Duty.—Any auditor neglecting or refusing to comply with the preceding provisions of this article shall [pay a penalty of] *upon conviction thereof in a summary proceeding, pay a fine of not more than one hundred dollars, [to be recovered by summary proceeding, upon the complaint of any taxpayer. Any penalty recovered shall be paid into the treasury of the township.] and in default of the payment of such fine and costs, shall be sentenced to imprisonment of not more than ten days.*

Section 550. Employment and Compensation of Attorney.—The auditors, in case of a disagreement with any officials or board of [officials] *township supervisors* whose accounts they are required to audit, may employ an attorney. Such attorney shall not be employed until reasonable effort to reach an agreement has been made, and only after notice of their intention so to do has been given to said official or board of [officials] *township supervisors*. The compensation for such attorney shall be fixed by the auditors, and shall not exceed [the sum of ten dollars per day, nor total in any case more than] thirty dollars, unless [when] an appeal is taken to the court, in which case the court shall fix the additional compensation for the attorney. The compensation for said attorney shall be paid out of the *general township [treasury] fund* by a warrant drawn by the auditors upon the treasurer of the township.

Section 551. Balances Due to Be Entered as Judgments.—Any balance, in any report of the auditors, against any officer of the township shall constitute a surcharge against such officer, as fully as if expressly stated in said report to be a surcharge. [and the amount of any balance, and of any express surcharge, if unappealed from within thirty days, shall be entered by the prothonotary as a judgment against such officer and in favor of the township.] The auditors shall direct the clerk of court of quarter sessions to certify the amount of every *such* balance or surcharge [contained in any such report] from which no appeal has been taken, *within the time and in the manner hereinafter provided, to the court of common pleas [for entry thereof by] and*

the prothonotary *shall enter the same* as a judgment against such officer and in favor of the township.

Section 552. Collection of Surcharge; [and charges by Taxpayers] Bond.—Any auditor, *registered elector*, or taxpayer of the township may enforce the collection of a judgment entered for a surcharge [thereof] for the benefit of the township, by *any appropriate* action or execution, upon filing in the court of common pleas a bond (in the case of a *registered elector or taxpayer*), with one or more sureties, conditioned to indemnify the township [from] for all costs which may accrue in the proceedings undertaken by such taxpayer, subject, however, to all rights of appeal from the report of auditors hereinafter granted.

Section 553. Appeals from Report.—The township, or any *registered elector or taxpayer* thereof on its behalf, or any officer whose account is settled or audited by the township auditors, may appeal from any settlement or audit of the township auditors to the court of common pleas within forty-five days after the settlement has been filed in the court of quarter sessions.

Section 554. Taxpayer's Appeal; Bond.—No appeal by a *registered elector or taxpayer* or officer shall be allowed unless *the appellant shall enter into recognizance to prosecute the same with effect, and to pay all costs accruing thereon, in case, if the appellant be a *registered elector or taxpayer*, he shall fail to obtain a final decision more favorable to the township than that awarded by the auditors, or, in case the appellant be an officer, he shall fail to obtain a final decision more favorable to the officer than that awarded by the auditors.

Section 555. Intervention by Taxpayers; Bond.—Whenever an appeal has been taken from the report of the auditors by the township, or by any person charged or surcharged in such report with any sum of money, any *registered elector or taxpayer* of the township may intervene in such appeal, and either prosecute the same on its behalf, or defend it against the appeal of the person so charged. No *registered elector or taxpayer* shall intervene unless he shall file in the court of common pleas a bond, with one or more sufficient sureties, conditioned to indemnify the township against all costs accruing by reason of such intervention.

Section 556. Consolidation of Appeals.—When more than one appeal from the report of the auditors is taken, whether by the township, an officer [or officers] thereof, or by a *registered elector or taxpayer*, [or taxpayers] the court may *on its own motion*, and shall upon petition of any party interested, direct that the several appeals [to] be [disposed of in a single proceeding] *consolidated*.

* "the," omitted in original.

Section 557. Testimony and Argument.—Any person interested may order the appeal upon the argument list, and evidence may be taken [before any person authorized to administer oaths, upon rule for that purpose served upon the opposite party] by **deposition*.

Section 558. Framed Issues.—Whenever any matter of fact is in dispute, the court of common pleas is authorized to frame an issue for the trial thereof.

Section 559. Report; Prima Facie Evidence; Burden of Proof.—The accounts of the officer [or officers] in question may be investigated de novo. The figures and facts found and stated by the auditors in their report of audit shall be taken as prima facie correct as against any such officer, and the burden shall be upon each officer, whose accounts are in question, to establish the validity of the credits which he claims.

Section 560. Findings; Judgment.—After hearing, the court shall file its finding of fact and law, and enter judgment in accordance therewith, and the judgment so entered may be enforced by any appropriate proceedings by [the party prevailing] any auditor, officer, registered elector or taxpayer of the township.

Section 561. Costs.—In all cases of appeal from the report or audit of township auditors to the court of common pleas, the costs shall abide the event of the suit as in other cases.

Section 562. Appeals from Lower Courts.—Any person interested may except to the rulings of the court, and may appeal therefrom to the Superior or Supreme Court as in other cases.

Section 563. Counsel Fees.—When an appeal is taken from the township auditors' report or settlement of the account of any township officer, and such appeal results **favorably to the appellants in such a manner that money is recovered for any township, the court hearing such appeal shall make an order to pay a reasonable counsel fee. [which it deems just and reasonable to the counsel representing such appeal, out of the funds so recovered.]

(f) Tax Collector

Section 570. Powers, Duties and Liabilities.—The tax collector of townships shall collect all county, township, school, [poor] *institution district* and other taxes levied within townships by authorities empowered to levy taxes. He shall, in addition to the powers, duties and responsibilities enumerated in this act, have all the powers, perform all the duties, be subject to all the obligations and responsibilities for the collection of such

* "deposition," in original.

** "favorable," in original.

taxes, as are now vested in, conferred upon, or imposed upon, [collectors of the several classes of taxes herein-before mentioned] *tax collectors by law*.

(g) Assessor

Section 575. *Powers and Duties of Assessor*.—The assessors of townships shall have all the powers, perform all the duties, be subject to all the obligations and responsibilities, and receive the compensation as is provided for by [existing laws] *law*. [relating to taxation.]

(h) Township Solicitor

Section 580. *Election*.—The board of supervisors, on the first Monday of January in any year, or as soon thereafter as practicable, may elect, by a vote of a majority of the members, and fix the compensation of one person learned in the law, who shall be styled the township solicitor. [and who shall serve for the term of one year.]

Section 581. *Solicitor to Have Control of Law Matters*.—The law matters of the township shall be under *the* superintendence, [discretion] *direction*, and control of the township solicitor, and no official or official body of the township, except as herein otherwise provided, shall employ an additional counsel without the assent or ratification of the board of supervisors.

Section 582. *Duties of Solicitor*.—The township solicitor, *when directed or requested so to do*, shall prepare or approve such bonds, obligations, contracts, leases, conveyances, *ordinances* and assurances to which the township may be a party; [as may be directed by resolution] he shall commence and prosecute all actions brought by the township for or on account of any of the estates, rights, trusts, privileges, claims, or demands, as well as defend all actions or suits against the township, or any officer thereof, wherein or whereby any of the estates, rights, privileges, trusts, ordinances, or accounts, of the township, may be brought in question before any court in the Commonwealth, and shall do every professional act incident to the office which he may be authorized or required to do by the board of supervisors or by any resolution. He shall, whenever required, furnish the board of supervisors, or any of them, with his opinion in writing upon any question of law which may be submitted by any of them in their official capacities.

(i) Township Engineer

Section 585. [Election of] *Township Engineer*.—The township supervisors may, at any time, appoint, by a vote of a majority of them, a township engineer who

shall be a [registered civil] *registered professional engineer* and fix his compensation.

Section 586. Duties; Preparation of Plans.—The township engineer shall perform such duties as the township supervisors shall prescribe as to the construction, reconstruction, maintenance and repair of all streets, roads, pavements, sewers, bridges, culverts, and other engineering work. He shall prepare plans, specifications and estimates of all such work undertaken by such township, and shall, whenever required, furnish the township supervisors with reports, information or estimates on any township engineering work, or on questions submitted by any of them in their official capacity.

Section 587. Certificate of Commencement and of Completion of Municipal Improvements.—Where a township engineer is employed, he shall, immediately after the completion of any municipal improvement, the cost of which, in whole or in part, is to be paid by the owners of the abutting property, make a certificate in which he shall state the day or time on which the particular improvement was completed, and shall file the same with the township secretary, who shall enter the said day or time of completion in a book to be kept by him for said purposes; and the said day or time mentioned in said certificate shall be conclusive on all parties as to the time the said work was completed. The time of completion of the work, referred to in this section and in other parts of this act, shall be taken to mean the time of the completion of the whole contract for the improvement. He shall also furnish to the township secretary a certificate showing the time at which any such particular improvement was commenced, and such [certificates] *certificate* shall be conclusive evidence of the time when the said improvement was begun; and an entry of such date shall be made by said secretary in the book aforesaid.

(j) Township Police

Section 590. Petition for Appointment of Police; *Contracts for Police Services*.—A. Upon the petition of not less than twenty-five *registered electors or taxpayers* of any township, or of two or more adjacent townships, representing that the safety of the citizens and the security of property *makes it necessary for the appointment of one or more [electors, who shall be residents of the county of which the said township or townships are a part, to act as policeman,] *policemen*, the supervisors of such township or townships shall consider said petition, and, if satisfied of the reasonableness and propriety

* "make," in original.

of said application, shall appoint one or more [qualified] *registered* electors, who shall be residents of the *Commonwealth* of which the said township or townships are a part, to act as policemen, and to serve at the will of said supervisors.

The supervisors of such township or townships shall fix the number of policemen, the compensation of such policemen, and shall limit the term of service of said policemen as it may deem proper. Where such policemen are appointed for two or more townships, the supervisors of such townships shall fix the amount of compensation which shall be paid by each of such townships. Such compensation shall be paid from *the general township [funds] fund*.

B. Any township may contract with any adjacent township of the first or second class, or with any borough, and may expend moneys from the general fund for the purpose of securing the services within the township of the police of such adjacent township or borough. When any such contract has been entered into, the police of the employing township or borough shall have all the powers and authority conferred by law on township police in the territory of the township which has contracted to secure such police service.

Section 591. Powers.—Each policeman so appointed shall [possess and exercise all the powers of policemen of cities of this Commonwealth] *be an ex-officio constable of the township, and shall and may, without warrant and upon view, arrest and commit for hearing any and all persons guilty of breach of the peace, vagrancy, riotous and disorderly conduct, or drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of citizens, or in violating any of the ordinances of said township for which a fine or penalty is imposed.*

The keepers or persons in charge of jails, lockups, or station houses shall receive all persons arrested by such policemen for the commission of any offense against the laws of this Commonwealth within said township.

Section 592. Shield.—Each policeman, when on duty, shall wear a shield or badge with the words “township police” and the name of the township or townships for which he was appointed inscribed thereon.

Section 593. Equipment.—The township supervisors may provide *each* such [policemen] *policeman* with a uniform and equipment and [for] means of transportation and the maintenance of the same, the cost thereof to be paid out of the [funds] *general township fund* of the township or townships.

Section 594. *Certain Compensation Prohibited.*—It shall not be lawful for any township policeman to charge or accept any fee or other compensation in addition to the salary paid to him as a policeman for any service rendered or performed by him pertaining to his office or duties, except public rewards and the legal mileage allowed to constables for traveling expenses.

Section 8. The said act is hereby amended by adding thereto five new sections, known as sections 595 to 599 inclusive as follows:

Act of May 1,
1933 P. L. 103,
amended by adding
new sections
595 to 599
inclusive.

Section 595. *Police Pension Fund.*—Where a police force is being maintained, the township shall, by ordinance, establish a police pension fund into which each member of the police force shall pay an equal and proportionate monthly charge, not exceeding annually three per centum of the pay of such member. The fund shall be under the direction of the supervisors, or such committee as they may, by ordinance, prescribe, for the benefit of such members of the police force as shall receive honorable discharge therefrom, by reason of age or disability, and the families of such as may be injured or killed in the service. Any allowances made to those, who are retired by reason of disability or age, shall be in conformity with a uniform scale.

Section 596. *Service Required Before Retirement.*—

(a) The ordinance establishing the police pension fund may prescribe a minimum period of continuous service, not less than twenty years, after which the members of the force may be retired from active duty. Township policemen, so retired, shall be subject to service as police reserves until unfitted for such service by reason of age or disability, when they may be finally discharged.

(b) The basis of the apportionment of the pension shall be determined by the rate of monthly pay of the member at the date of death, honorable discharge, or retirement, and shall not in any case exceed in any year one-half the annual pay of such member computed at such monthly rate.

Section 597. *Pensions not to be Charged on Other Funds.*—Payments made on account of police pensions shall be a charge on no fund in the treasury of the township or under its control, other than the police pension fund.

Section 598. *Gifts to Pension Fund.*—Townships may take by gift, grant, devise or bequest any money or property, real, personal or mixed, in trust for the benefit of such police pension fund. The care, management, investment and disposal of such trust funds or property shall be vested in such officers as the supervisors shall, by ordinance, direct, and shall be governed by such

officers subject to any directions, not inconsistent therewith, as the donors of such funds and property may prescribe.

Section 599. Rights of Members.—A person, participating in such police pension fund and becoming entitled to receive a benefit therefrom, shall not be deprived of his right to an equal and proportionate share therein upon the basis upon which he first became entitled thereto, except for the following causes, that is to say conviction of a crime, or misdemeanor, becoming an habitual drunkard, becoming a non-resident of the Commonwealth, or failing to comply with some general regulation relating to the management of such fund, which may be made by ordinance, and which provides that a failure to comply therewith shall terminate the right to participate in the pension fund after such notice and hearing as it shall prescribe.

Sections 601 to 806, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 9. Section 601 to 806 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

ARTICLE VI

STATE AND COUNTY ASSOCIATIONS OF TOWNSHIP OFFICERS

(a) County Associations

Section 601. County Associations.—[of Supervisors] County associations of township supervisors, auditors, assessors and tax collectors [other persons officially charged with the construction and maintenance of the public roads or streets] may be formed. Such associations, when formed, shall hold annual [or semi-annual] conventions at the county seats of the respective counties, or some other suitable place, [within the county] for the purpose of considering and discussing questions and subjects pertaining to the best methods for the [construction] improvement [and maintenance] of the [public highways and bridges] township government, the assessment of property, the collection of taxes and the construction, improvement and maintenance of roads. Such associations of two or more adjacent counties may arrange to meet in joint session.

Section 602. Who to Attend; Compensation and Mileage.—The supervisors of townships, auditors, assessors, tax collectors, and the secretary of the board of township supervisors, when not a member of the board, shall attend such conventions whenever possible. Each township supervisor, auditor, assessor, tax collector, and secretary attending such convention shall receive a certificate, signed by the presiding officer and acting secretary of the convention, attesting his presence at the con-

vention. Such certificate shall entitle him to collect from the township treasurer the sum of [three] *five* dollars per day for each day's attendance, and mileage at the rate of four cents per mile traveled, to be computed by the route usually traveled from his place of residence to the place where the convention is held. No township supervisor, auditor, *assessor*, *tax collector*, or secretary shall be paid for more than [two days] *one day's* attendance in any one year.

Section 603. Officers of County Association.—The officers of the association shall consist of a president, two vice-presidents, a secretary, and a treasurer, none of whom shall be interested directly or indirectly in the promotion or sale of road material and equipment, and all of whom, except the secretary, shall be members of the association, and shall hold office for one year or until their successors are chosen. If desirable, the secretary may be a person not a regular member of the association, and may be paid for his service such compensation, not exceeding [ten] *fifteen* dollars per annum, as the other officers may determine. Every township supervisor, *assessor*, *tax collector*, and auditor attending such convention may vote in the election of officers.

Section 604. County to Pay Expenses.—The county treasurer shall, on warrants of the county commissioners, pay to the treasurer of such association, from the county funds, the necessary expenses incurred for the holding of such annual or semi-annual convention, including the necessary expenses of the secretary. The total sum thus paid by any county shall not exceed one hundred and twenty-five dollars a year.

Within thirty days after each such convention, the treasurer of such association shall file with the county commissioners an itemized statement, under oath, showing when and where such convention was held, the number of township supervisors, auditors, *assessors*, *tax collectors*, and township secretaries present, and all the expenses connected with such convention, together with proper voucher for all such expenses, and no payment shall be made to the treasurer of such association until he has presented to the county commissioners an itemized and verified statement of expenses.

(b) *State Association of Township Supervisors*

Section 610. State Association Authorized.—The formation of a State Association of [township supervisors] *Township Supervisors* is hereby authorized. The association shall hold annual meetings, at such time and place within the Commonwealth as it may designate, for the purpose of discussing various questions and subjects

pertaining to the duties of township supervisors, and for the purpose of devising uniform, economical and efficient methods of administering the affairs of townships. All dues assessed by the association, [may be paid by the board of township supervisors. Such dues] *which shall not exceed fifteen dollars per year per township, shall be paid by the member townships from their general township funds.*

Section 611. Delegates.—Each county association of township supervisors shall elect one township supervisor for each ten townships, or fraction thereof, within said county, as a delegate to each annual meeting of said State association.

Section 612. Expenses and Mileage.—The expenses of the delegates attending the annual meeting shall not exceed six dollars per day for each delegate for not more than three days, together with the actual mileage at the prevailing rate of railroad fare, and shall be paid by the respective county associations.

Section 613. Limit on Meeting Expenses.—The expenses of the annual meeting, including expenses of committees, printing, and stenographers, shall be paid pro rata by the respective county associations, and shall not exceed fifteen dollars for each county association.

Section 614. Itemized Statement Filed with County Treasurer.—Within thirty days after each annual meeting of the State association, the treasurer of the respective county association shall file, with the county commissioners, an itemized statement, under oath, setting forth where and when the annual meeting of the State association was held, the number of delegates from the respective association in attendance and the expenditures due from the county association for such annual meeting, and the county commissioners shall draw their warrant on the county treasurer and pay to the treasurer of the respective county association, out of the county funds, the amount expended by the county association under the provisions of this subdivision: Provided, however, That in all counties having controllers said accounts shall be audited by the controller.

ARTICLE VII

General Powers

Section 701. Suits; Property.—[Townships] *Any township* of the second class may—

I. Sue and be sued; [by the name of the townships of]

II. Purchase, *acquire by gift or otherwise*, hold, lease, let and convey such real and personal [estate as

the purposes] *property as shall be deemed to be for the best interests* of the *townships. [shall require] Such real and personal [estate] *property* shall be taken and held only for the benefit of the inhabitants of the township, and for such objects and purposes [as] *for which the township [rates and levies] tax and special tax assessments* are authorized by law [to be laid for].

Section 702. Supervisors to Exercise Powers.—The corporate powers of townships of the second class shall be exercised by the township supervisors. [They] *In addition to the duties imposed upon them by section 516 hereof, they shall have power—*

I. Lighting. To light and illuminate the [streets] highways, *roads*, and other public places of the township with electric light, gas, or other illuminating medium, and to provide for defraying the cost, charges and expenses thereof; and, for such purposes, to enter into contracts or agreements with any person, copartnership, association, or corporation, for a period not exceeding [five] *ten* years, for the purpose of securing and maintaining a supply of light.

II. Contracts and Assessments for Lighting.—On the petition of the owners of a majority of the lineal feet frontage along any *road*, [street] highway, or portion thereof within the township, to enter into contract with electric, gas, or other lighting companies to light and illuminate said *roads* [streets] and highways and other public places in villages with electric light, gas light, or other illuminant.

The township supervisors shall annually assess or cause to be assessed the cost and expense of the maintenance of said lights by an equal assessment on all property benefited by such lighting in proportion to the number of feet the same fronts on the street or highway or portion thereof to be lighted. The supervisors may provide for an equitable reduction from the frontage of lots at intersections or where, from the peculiar or pointed shape of lots, an assessment of the full frontage would be inequitable. No such assessment shall be made against any farm land, but vacant lots between built-up sections, whether tilled or untilled, shall not be deemed to be farm lands: Provided, however, That the assessment per front foot against vacant lots shall be only twenty-five per centum [(25%)] of the assessment per foot front against property with improvements thereon. All such assessments for street lighting shall be filed with the township tax collector, who shall give thirty days written or printed notice that the assessments are due and payable, stating the due date to each party assessed, either by service on the owner of

* "township," in original.

the property, or by mailing such notice to the owner at his last known post office address. The tax collector shall be entitled to the same commission for the collection of such assessments as he is entitled to by law for the collection of the township road tax. If the assessments, or any of them, remain unpaid at the expiration of not exceeding ninety days, the exact time to be fixed by the township supervisors, they shall be placed in the hands of the township solicitor for collection. The solicitor shall collect the same, together with five per centum [(5%)] as attorney's commission, and interest, from the date such assessments were due, by a municipal claim filed against the property of the delinquent owner in like manner as municipal claims are by law filed and collected. Where an owner has two or more lots against which there is an assessment for the same year, all such lots shall be embraced in one claim. All assessments, when collected, shall be paid over to the township treasurer, who shall receive and shall keep the same in a separate account, and pay out the same only upon orders signed by the chairman of the township supervisors, attested by the secretary. The tax collector and the treasurer shall make a report to the auditors of the township annually.

III. Contracts and Tax Levy for Fire Purposes.— On the petition of the surface property owners of a majority of the lineal feet frontage along any highways, streets, roads and alleys, or portion thereof, in any village within the township, to enter into contract with water companies for the placing of fire hydrants, to water mains maintaining pressures approved by the fire insurance underwriters along said highways, streets, roads and alleys or to provide for or acquire a water supply system equipped to supply sufficient water for the protection of property from fire.

The supervisors shall levy, for the acquisition of a water system for the maintenance of such fire hydrants and for the purchase of hose, et cetera, an annual tax upon the property abutting upon said * highways, streets, roads and alleys and upon property within five hundred feet of any fire hydrant in the district benefited thereby, based upon the assessment for county purposes. No such tax shall be levied against any farm land or land used as an aviation field or against other property in the district not benefited thereby. Such tax shall be collected in the same manner as other taxes. The collector shall receive the same commission as on the [road] township tax.

The township treasurer shall receive all such taxes collected for fire protection, and keep the same in a

* "high-," deleted from original.

separate account, and pay the same out only upon orders signed by the chairman of the board of supervisors, attested by the secretary. The treasurer shall make a report to the auditors of the township annually.

IV. Fire Protection.—To appropriate moneys to fire companies located therein for the purchase and maintenance of fire apparatus, and fire houses, in order to secure fire protection for the inhabitants of the township. An annual report of the expenditure of such appropriated moneys shall be made to the township supervisors for each completed fiscal year of the township by such fire companies, verified by an officer thereof, before any further payments shall be made to such fire companies out of appropriations for any current fiscal year. To enter into contracts with the proper authorities of near or adjacent cities, boroughs, or townships, or fire departments, fire companies, or fire company therein, for the furnishing to such townships of fire protection by the fire department, fire departments, fire companies, or fire company of such cities, boroughs, or townships, and to make appropriations therefor: Provided, That such contracts before being entered into by township supervisors shall be first approved by the township auditors.

V. Watering Troughs.—To erect watering troughs along the highways, at an expense not exceeding twenty dollars, and to keep the same in repair.

VI. Memorial Day Appropriations.—To appropriate moneys for the expenses of Memorial Day services.

VII. Road Bulletins.—To subscribe for not more than three publications—the main subject-matter of which pertains to good roads and road building. Such publications shall be for the joint use of the [supervisors, superintendents, and roadmasters] *officers* of the township.

VIII. Garbage Regulations.—To provide for the care and removal of ashes, garbage, and other refuse material, including the imposition and collection of reasonable fees and charges therefor, and on petition of a majority of the adult taxable residents of any territory within the township, which has been definitely defined, set apart and limited by the township supervisors, with the approval of the township auditors, as a village, prior to the filing of any such petition, the supervisors shall, either with township employes and facilities, or with independent contractors, provide for the removal from the village of ashes or garbage or other refuse material, as the case may be, and for the disposal thereof. The supervisors shall levy a per capita [tax] *assessment* upon all adult [taxable] residents of any such village,

sufficient to defray the cost of such removal and disposal. Such [tax] assessment shall be collected in the same manner as [other] per capita taxes, and the collector shall receive the same commission thereon. The treasurer of the board of supervisors shall receive all such [tax] assessments collected and keep the same in a separate account and pay the same out only upon orders signed by the chairman and attested by the secretary of the board of supervisors. The treasurer shall make an annual report of the account to the auditors of the township.

IX. Traffic Lights and Signals.—To provide for and to expend [township road] moneys *from the general township fund* for the erection, maintenance, and operation of traffic lights and traffic signals whenever deemed necessary for the protection of the traveling public.

X. [Road Supplies] *Roads*.—To purchase [such timber] or hire material, equipment, machinery, [road-drags, tools] *teams* and implements as shall be necessary for [making and repairing] *the construction, repair and maintenance* of roads and bridges. [to employ sufficient number of laborers to make and repair the same and to] *Records shall be kept of the rental paid for all equipment, machinery, teams and implements hired. To lease or lend, for adequate consideration, such equipment, machinery [road-drags, tools] and implements, [to school districts and other townships, boroughs or cities] to contract, [or] to construct, reconstruct, improve or maintain driveways on lands owned or occupied by [co-terminus] school districts of the township, and to contract for the construction, reconstruction and improvement of roads [for] in the township.*

XI. Appropriations for Forestry.—To appropriate moneys from [their respective treasuries] *the general township fund* to any forest protection association cooperating [in forest work] with the State Department of Forests and Waters, or to be expended in direct cooperation with said Department of Forests and Waters in forest work; and to purchase or take by gift any forest lands for recreational purposes.

XII. Nuisances.—To prohibit *nuisances, including but not limited to*, accumulations of garbage and rubbish, and the storage of abandoned or junked automobiles, on private and public property, and the carrying on of any offensive manufacture or business; and to remove any nuisance or dangerous structure on public or private grounds after notice to the owner to do so, and, in his default, to collect the cost of such removal, together with a penalty of ten dollars from the owner by summary proceedings. In the exercise of the powers

herein conferred, the township may institute proceedings in courts of equity.

XIII. Insurance.—To expend out of the [public funds of the township] *general township fund* such amount as may be necessary to secure workmen's compensation insurance for its employes, including volunteer firemen killed or injured while going to, returning from, or attending fires in said township or territory adjacent thereto, *or while performing any other duties authorized by the township*; to make contracts of insurance with any fire insurance company, duly authorized by law to transact business in the Commonwealth of Pennsylvania, on any building or property owned by such township, to make contracts with any insurance company, *so authorized*, insuring any public liability of the township, and to make contracts of [group] insurance [for the benefit of its employes] *with any insurance company, or nonprofit hospitalization corporation, or nonprofit medical service corporation, authorized to transact business within the Commonwealth, insuring its employes, or any class or classes thereof, under a policy or policies of group insurance covering life, health, hospitalization, medical service, or accident insurance, and may contract with any such company, granting annuities or pensions, for the pensioning of such employes, and for such purposes, may agree to pay part or all of the premiums or charges for carrying such contracts, and may appropriate out of its treasury any money necessary to pay such premiums, or charges, or portions thereof. The supervisors are hereby authorized, enabled and permitted to deduct from the employe's pay, salary or compensation such part of the premium, or charge, as is payable by the employe, and as may be so authorized by the employe in writing.*

XIV. Armories.—To appropriate money or convey land, either independently or in connection with any county, city, town, borough or township, to the Commonwealth, [of Pennsylvania] for the purpose of assisting the Armory Board of the Commonwealth [of Pennsylvania] in the erection of armories for the use of the National Guard, and to furnish water, light or fuel, free of cost to the Commonwealth, for use in any armory of the National Guard, and to do all things necessary to accomplish the purposes of this clause.

XV. National Guard.—To take by right of eminent domain, for the purpose of appropriating to [themselves] *the township*, for the use of the National Guard of Pennsylvania, such public lands, easements, and public property as may be in [their] *its* possession or control, and used or held by [them] *it* for any other

purpose. Such right, however, shall not be exercised as to any street or highway or wharf. [but all other public easements and property may be appropriated and used for the purposes herein provided; any limitation of the use thereof by the township, either by donation, dedication, appropriation, statute, or otherwise, to the contrary notwithstanding.]

XVI. Acquisition of Lands to Assist Armory Board.—To acquire, by purchase or by gift or by the right of eminent domain, any land for the use of the National Guard of Pennsylvania, and to convey such lands so acquired to the Commonwealth [of Pennsylvania] *in order* to assist the Armory Board in the erection of armories. [The proceedings for the condemnation of lands under the provisions of this act, and for the assessment of damages for property taken, injured, or destroyed, shall be taken in the same manner as is provided by this act for the condemnation of lands for public purposes in townships.] The power conferred by this clause shall not be exercised to take any church property, graveyard, cemetery, or any dwelling house, or the curtilage of the same, in the actual occupancy of the owner.

XVII. Burial Plots of Ex-Service Men.—To purchase plots of ground in any cemetery or burial ground for the interment of such deceased service men *and women* as shall hereafter die within such township, or shall die beyond such township and shall have a legal residence within such township at the time of their death and whose bodies are entitled to be buried by the county. Such plots of ground shall be paid for out of the [treasury of such townships] *general township fund*.

XVIII. Display of Flags.—To display the flag of the United States, the Commonwealth, or of any county, city, borough or township on any public building of the township.

XIX. Care of Memorials.—To *take charge of, care for,* maintain and keep in good order and repair at the expense of the township, [and it shall be their duty so to do,] any soldiers monument, gun or cartridge, or other similar memorials, when there is not in existence any person, body or organization to care for and maintain the same, and when such memorials were not erected by the government of the United States, the Commonwealth of Pennsylvania, any other state, or by the commissioners of any county; and to receive from persons or organizations funds for such purposes.

XX. Fireworks and Inflammable Articles.—To regulate and prohibit, by resolution *or ordinance*, the manufacture, [sale or exposure] of fireworks or other in-

flammable or dangerous articles; to grant permits for supervised public displays of fireworks and to adopt reasonable rules and regulations governing such displays; to [prescribe the qualities] adopt reasonable rules and regulations not inconsistent with State regulations covering the storage of inflammable articles; [that may be kept in place] and to prescribe such other safeguards concerning the same as may be necessary. [and, upon violation of any such regulation or prohibition, to collect a penalty of twenty-five dollars from the person violating the same by summary proceedings.] In the exercise of the powers herein conferred, the township may institute proceedings in courts of equity.

XXI. Support of National Guard Units.—To appropriate annually a sum not exceeding seven hundred and fifty dollars for the support and maintenance, discipline and training of any dismounted company or similar unit of the National Guard, and a sum not to exceed fifteen hundred dollars for the support and maintenance of any mounted or motorized troop or similar unit of the National Guard. Where such units are organized as a battalion, regiment or similar organization, the total amount due may be paid to the commanding officer of the battalion, regiment or similar organization. Any moneys so appropriated shall be paid by warrant drawn to the order of the commanding officer of such company, battalion, regiment or similar organization, only when it shall be certified to the township, by the Adjutant General of the State, that the said company or companies have satisfactorily passed the annual inspection provided by law. The moneys so appropriated shall be used and expended solely and exclusively for the support and maintenance, discipline and training of the said company, battalion, regiment, or similar organization; and the commanding officers shall account, by [the] proper vouchers to the said township each year, for the expenditure of the money so appropriated, and no appropriation shall be made for any subsequent year until the expenditure of the previous year is duly and satisfactorily accounted for.

The accounts of such expenditures shall be subject to the inspection of the Department of Military Affairs, and shall be audited by the Auditor General in the manner provided by law for the audit of accounts of state moneys.

XXII. Fire Hydrants and Water Supply; Special Tax.—With the consent of two-thirds of the electors of the township voting thereon, as hereinafter provided, to [enter into] contract with water companies for the placing of fire hydrants, and for the maintenance of adequate water pressure for fire purposes, and to levy

an annual tax, not exceeding [one mill] *two mills*, for the purpose of defraying the expense thereof.

Whenever [twenty-five] *five per centum* or more [duly qualified] *registered* electors of the township shall petition the supervisors for the establishment and maintenance of fire hydrants and fire hydrant water service, and the levy of a tax, not exceeding [one mill] *two mills*, to defray the expense thereof, and for a referendum thereon, the supervisors shall, if they approve thereof, cause a question to be submitted at the next municipal election occurring at least sixty days thereafter, by certifying a resolution duly adopted to the [county commissioners] *county board of elections* for submission on the ballot or on voting machines, in the manner provided by the election laws of this Commonwealth. If two-thirds or more of the persons voting on such question in the township shall vote "Yes," then the supervisors shall have power to enter into *such* contract and levy an annual tax as aforesaid: Provided, That no such question shall be submitted at any election unless the resolution of the board of supervisors authorizing the same shall be published once in a newspaper of general circulation published in the county in which the township is situated. If within thirty [(30)] days after date of publication, taxpayers of the township whose property valuation as assessed for taxable purposes within the township shall amount to thirty-five per centum [(35%)] of the total property valuation as assessed for taxable purposes within the township, shall sign and file with the chairman of the board of supervisors a written protest against submitting such question at any election, then the board of supervisors shall not certify any resolution to the [county commissioners] *county board of elections* as provided in this clause.

XXIII. Regulation of Parks.—To regulate by resolution or ordinance the use and enjoyment by the public of any park or recreational grounds owned and operated by charitable organizations for the use of the public without charge; to prescribe rules for the use by the public of such parks and recreational grounds and the facilities and amusements connected therewith; and to make any violation of such rules when posted at conspicuous places in such parks or recreational grounds punishable in a summary proceeding before any justice of the peace, alderman or magistrate of the county by the payment of costs of prosecution and a fine of not [less than two dollars (\$2.00), or] more than ten dollars, [(\$10.00)] and, in default of the payment thereof, imprisonment in the jail of the county for a period not exceeding five [(5)] days.

Any police officer when displaying a badge or sign of authority may arrest upon view any person violating any such rules, and such peace officer shall forthwith make and file with the justice of the peace, alderman or magistrate before whom the arrested person is taken an information setting forth the offense.

XXIV. Regulation of Parking.—To regulate parking and provide parking accommodations so as to promote the convenience and protection of the public. [Provided such regulation shall not contravene the provisions of "The Vehicle Code."]

XXV. Zoning Ordinances.—To adopt and enforce zoning ordinances, regulating the location, construction, and use of buildings, the size of courts and open spaces, the density of population, and the use of land.

XXVI. Obstruction of Roads, Drains and Bridges.—To prohibit, by ordinance, the erection or construction of any obstruction to the convenient use of the roads, footwalks, culverts, drains and bridges in the township.

XXVII. Cemetery, Cesspool, Sewer and Drainage Regulations.—To make regulations, by ordinance, respecting cemeteries, vaults, sewers, drains and cesspools.

XXVIII. Abandoned or Neglected Cemeteries.—Whenever any cemetery or burial ground, incorporated or unincorporated, is being neglected, although occasionally used for burial purposes, the court of quarter sessions of the county, upon petition of twenty-five residents of the township, wherein such cemetery is located, may direct the supervisors to care for such cemetery at a cost of not more than thirty dollars in any one year, and the supervisors shall expend moneys from the general township fund for such purpose. Such cemetery shall remain open to the public as may be directed by the court.

XXIX. Health.—To make such regulations, by ordinance, not inconsistent with State laws and regulations, as may be necessary for the promotion of the health, cleanliness, comfort and safety of the citizens of the township.

XXX. Sewers.—In the manner hereinafter provided, to establish and construct, singly or jointly with other municipalities, sewer and drainage systems in the township, or part thereof, and to finance and assess the cost thereof, and to provide for the making of sewer constructions and the charging of rental for sewerage service.

XXXI. Water Supply.—In the manner hereinafter provided, to provide a supply of water for public or private uses in the township, or part thereof, and to

finance and assess the cost thereof, to provide for the construction of necessary lines and works therefor, and to charge and collect water rentals.

XXXII. Fire Prevention.—To make regulations, by ordinance, relative to the cause and prevention of fires.

XXXIII. Public Amusements.—To regulate, by ordinance, not inconsistent with State law and regulations, the time of opening and closing, and the conduct of places of public entertainment, amusement and recreation.

XXXIV. Parks and Recreation Centers.—To designate, set apart, acquire, supervise, operate and maintain, in the manner hereinafter provided, parks, playgrounds, gymnasiums, public parks, swimming pools and recreation centers.

XXXV. Regulation of Dogs.—To prohibit or regulate, by ordinance, the running at large of dogs.

XXXVI. Lockups.—To provide lockup facilities.

XXXVII. Numbering of Buildings.—To require and regulate the numbering of buildings.

XXXVIII. Sidewalks and Footpaths.—To provide for and expend moneys from the general fund of the township for the construction and maintenance of sidewalks and footpaths, whenever deemed necessary, for the protection of the traveling public.

XXXIX. Transient Merchants.—To license and regulate, by ordinance, transient retail merchants in the manner and to the extent hereinafter provided.

XL. Joint Municipal Agreements.—To enter into agreements with other political subdivisions, in accordance with existing laws, in making joint purchases of materials, supplies or equipment, and in performing governmental powers, duties and functions, and in carrying into effect provisions of law relating to said subjects, which are common to all such political subdivisions.

XLI. Ordinances.—To adopt ordinances prescribing the manner in which such specific powers of the township shall be carried out. All such ordinances, unless otherwise provided by law, shall be published prior to passage at least once in one newspaper circulating generally in the township. An ordinance shall not become effective until ten [(10)] days after the passage aforesaid. In any case in which maps, plans, or drawings of any kind are adopted as part of an ordinance, the supervisors 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. The board of supervisors may

prescribe fines and penalties not exceeding three hundred dollars [(\$300.00)] in any instance for the violation of any such township *ordinances, which fines and penalties may be collected by suit or summary proceeding brought in the name of the township before any justice of the peace. Proceedings for the violation of township ordinances and for the collection of fines and penalties imposed thereby may be commenced by warrant, or by summons, at the discretion of the justice of the peace before whom the proceeding is begun. No warrant shall be issued, except upon complaint on oath or affirmation specifying the ordinance for the violation of which the same is issued. All proceedings shall be directed to, and be served by, a constable of the township. Warrants shall be returnable forthwith and upon such return like proceeding shall be had, as in cases of ** summary conviction. All fines and penalties collected for the violation of township ordinances shall be paid over to the township treasury. *Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the township lockup for a period not exceeding five days, or to the county jail, or workhouse for a period not exceeding thirty days.*

[No] *Except as otherwise provided in this act, no ordinance shall be considered in force until same is recorded in the ordinance book of the township and is advertised as required in [clause XXV] this subsection.*

[An appeal] *Any person aggrieved may, within thirty days after any ordinance or resolution takes effect, [be made] make complaint as to the legality of such ordinance or resolution to the court of quarter sessions upon entering into recognizance with sufficient surety to prosecute the same with effect, and for the payment of costs. [by a person aggrieved within thirty (30) days after any ordinance takes effect and the] The determination and order of the court thereon shall be conclusive.*

ARTICLE VIII

CONTRACTS

Section 801. Power to Make ***Contracts.—Each township [shall have power to] *may make [such] contracts [as may be necessary for] for lawful purposes and for the purpose of carrying into execution the provisions of this act and the laws of the Commonwealth.*

Section 802. Letting Contracts.—[All purchases of materials, equipment and machinery for the construc-

* "ordinance," in original.

** "a," in original.

*** "Contract," in original.

tion, reconstruction and improvement of roads and bridges, involving an expenditure in excess of two hundred dollars, shall be by contract in writing, and shall be made only after competitive bidding. The secretary of the board shall either advertise, once a week for two weeks in one or more newspapers of general circulation in the township, for competitive bids, or shall obtain quotations from at least *3 responsible concerns. It shall be unlawful for the supervisors to evade the provisions of this section by making two or more contracts for small amounts which should have been in one. If the auditors find there has been any such evasion, they shall refuse to approve the same.

The supervisors shall not hire any work to be done, purchase any material, or make any contract in any amount which will cause the sums appropriated for such purposes to be exceeded. No contracts or purchases not provided for by an appropriation, or which shall cause any appropriation to be exceeded, shall be valid.

All contracts which in this section are required to be in writing and all contracts for the construction, reconstruction and improvement of roads and bridges shall be valid only when approved by the Department of Highways of the Commonwealth. A record of all purchases of material, equipment and machinery for road purposes, involving an expenditure of less than two hundred dollars, shall be kept by the supervisors and furnished to the Department of Highways in the annual report.] *Each township shall have the power to make, to authorize, and to ratify, expenditures for lawful purposes from funds available therefor, by borrowing within legal limitations: Provided, That all contracts or purchases in excess of five hundred dollars (\$500), except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder, after due notice in one newspaper of general circulation, published or circulating in the county in which the township is situated, at least three times, at intervals of not less than three days where daily newspapers of general circulation are available for such publication, and in the case of weekly newspapers, shall be published once a week for two successive weeks. The first advertisement shall be published not less than ten days prior to the date fixed for the opening of 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

* "three" in original.

subsequent meetings: *Provided, That at least five days' 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 suitable reasonable requirements, guaranteeing the work to be done, with sufficient surety in the amount of fifty per centum (50%) of the amount of the contract within twenty days after the contract has been awarded, unless the supervisors shall prescribe a shorter period not less than ten days, and upon failure to furnish such bond within such time, the previous award shall be void. Delivery, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein.

The contracts or purchases made by any supervisors involving an expenditure of over five hundred dollars (\$500), which shall not require advertising or bidding as hereinbefore provided, are as follows:

(a) *Those made for maintenance, repairs or replacements for water, electric light and other public works of the township, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by the supervisors as in other cases of work done.*

(b) *Those made for improvements, repairs or maintenance of any kind, made or provided by any township, through its own employes: Provided, however, That this shall not apply to construction materials used in a road improvement.*

(c) *Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles, or parts thereof, are desired by the supervisors, which are patented and manufactured products.*

(d) *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, county, the Commonwealth of Pennsylvania, or the Federal Government, or any agency of the Commonwealth or 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, or the expenditure therefor, shall not be in excess of those fixed by the Commonwealth, the Federal Government, or their agencies.*

(e) *Those involving personal or professional services. Except as herein provided, no township official, either elected or appointed, who knows or who, by the exercise*

of reasonable diligence, could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the township, or for any work to be done for such township involving the expenditure by the township of more than three hundred dollars (\$300) in any year, but this limitation shall not apply to cases where such officer, or appointee of the township, is an employe of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction, and in which he cannot be possibly benefited thereby, either financially or otherwise: Provided, however, That in the case of a supervisor, if he knows that he is within the exception just mentioned, he shall so inform the supervisors and shall refrain from voting on the expenditures, or any ordinance relating thereto, and shall in no manner participate therein: Provided, further, That any such official or appointee who shall knowingly violate this provision shall be subject to surcharge to the extent of the damage shown to be thereby sustained by the township, ouster from office, and shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500): Provided, That, in the case of the purchase of material, equipment and machinery for the construction, reconstruction, maintenance and improvement of roads and bridges, the contract, which shall be in writing, and shall be let only on standard specifications of the Department of Highways, or approved by said department, and materials so purchased shall only be used in accordance with specifications of, or approval of, said department.

Section 803. Bonds for Protection of Labor and Materialmen.—It shall be the duty of every township to require any person, copartnership, association, or corporation, entering into a contract with such township 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 township, 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 [(50%)] and not more than one hundred per centum [(100%)] of the [contract price] *liability under the contract*, as such township 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 in and become component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the township for the use of any party interested therein. Every such additional bond shall provide that every person, copartnership, association, or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided, and who has not been paid therefor, may sue in assumpsit on said additional bond in the name of the township 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: Provided, however, That the township shall not be liable for the payment of any costs or expense of any suit.

Section 804. Separate Specifications for Branches of Work.—In the preparation of specifications for the erection or alteration of any public building, when the entire cost of such work exceeds one thousand dollars, the architect, engineer, or person preparing such specifications, shall prepare separate specifications for the plumbing, heating, ventilating, and electrical work, and the township shall receive separate bids upon each of such branches *of work and award the contract for the same to the lowest responsible bidder.

Section 805. Workmen's Compensation Insurance.—All contracts executed by any township, 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 of one thousand nine hundred and fifteen, and any supplements or amendments thereto, and that the said contractor will insure his liability thereunder, or file with the township with which the contract is made a certificate of exemption from insurance from the Bureau of Workmen's Compensation of the Department of Labor and Industry.

Every officer of a township who shall sign, on behalf of the said township, any contract, requiring in its performance the employment of labor, shall require, before the said contract shall be signed, proof that the said contractor with whom the contract is made shall have accepted the Workmen's Compensation Act of one thousand nine hundred and fifteen, and any supplements or amendments thereto, and proof that the said contractor

* "or," in original.

has insured his liability thereunder in accordance with the terms of the said act, or that the said contractor has had issued to him a certificate of exemption from insurance from the Bureau of Workmen's Compensation of the Department of Labor and Industry.

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

Section 806. Engineers and Architects Not to Be Interested in Contracts.—It shall be unlawful for any architect or engineer, in the employ of a township, and engaged in the preparation of plans, specifications, or estimates, to bid on any public work at any letting of such work in such township.

It shall also be unlawful for the officers of a township, charged with the duty of letting any public work, to award a contract to any such architect or engineer in the employ of the township.

It shall [not be lawful] *also be unlawful* for any architect or engineer in the employ of a township to be in any wise interested in any contract for public work in such township, [nor] *or* receive any remuneration or gratuity from any person interested in such contract.

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

Act of May 1,
1933 P. L. 103,
amended by add-
ing new sections
807 to 809 in-
clusive.

Section 10. The said act is hereby amended by adding thereto three new sections, known as sections 807 to 809 inclusive:

Section 807. Minimum Wages under Contracts.—

(a) *The specifications upon which contracts are entered into by any township for the construction, alteration, or repair of any public work or improvement may, at the option of any such township, contain the minimum wage or wages, which may be paid by the contractor or his subcontractors for the work performed by laborers and mechanics employed on such public work or improvement, and such laborers and mechanics shall, in such cases, be paid not less than such minimum wage or wages.*

(b) *Every contract for the construction, alteration, or repair of any public work or improvement founded on specifications, containing any such stipulation for minimum wage or wages, shall stipulate a penalty of an amount equal to twice the difference between the minimum wage contained in said specifications and the*

wage actually paid to each laborer or mechanic for each day, during which he has been employed at a wage less than that prescribed in said specifications.

(c) Every officer, or person designated as an inspector of, or having supervision over, the work to be performed under any such contract, in order to aid in enforcing the fulfillment thereof, shall, upon observation or investigation, report to the supervisors of the township all violations of minimum wage stipulations, together with the name of each laborer or mechanic who has been paid a wage less *than that prescribed by the specifications, and the day or days of such violation.

(d) All such penalties shall be withheld and deducted for the use of the township from any moneys due the contractor by the officer or person, whose duty it shall be to authorize the payment of moneys due such contractor, whether the violation of the minimum wage stipulation of the specifications was by the contractor or by any of his subcontractors: Provided, That if any such contractor or subcontractor subsequently pays to all laborers and mechanics the balance of the amounts stipulated in such contract, the township shall pay to the contractor the amounts so withheld as penalties.

Section 808. Discrimination between ***Employees*.— Every contract for or on behalf of any township for the construction, alteration or repair of any public building or public work shall contain provisions by which the contractor agrees.

(a) That in the hiring of employes for the performance of work under this contract, or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed or color, discriminate against any citizen of the Commonwealth of Pennsylvania, who is qualified and available to perform the work to which the employment relates.

(b) That no contractor, subcontractor, nor any person on his behalf shall in any manner discriminate against or intimidate any ****employee* hired for the performance of work under his contract on account of race, creed or color.

(c) That there may be deducted from the amount payable to the contractor, under this contract, a penalty of five dollars for each person, for each calendar day, during which such person was discriminated against, or intimidated in violation of the provisions of the contract, and

(d) That the contract may be cancelled or terminated by the township, and all money due, or to become due

* "that," in original.

** "*Employees*," in original.

*** "*employee*," in original.

hereunder, may be forfeited for a second or any subsequent violation of the terms or conditions of this portion of the contract.

Section 809. Publication of Contract Notices.—Any township may legally authorize the publication of advertising for bids for public works, contracts, supplies or equipment in addition to the newspapers specified by law, also in any publication or journal devoted to the dissemination of information about construction work published in this Commonwealth at least once a week, and circulating among contractors, manufacturers and dealers, doing business in the community in which such public works are to be constructed, or supplies, or equipment purchased: Provided, That no advertisement for bids for public works, contracts, supplies or equipment shall be inserted in any publication or journal devoted to the dissemination of information about construction work which has not been established and regularly issued from a printing office and publication house in this Commonwealth for a period of at least eighteen months, and that such publication and journal shall be entered or entitled to be entered for admission to the United States mails as second class matter, and shall have a bona fide income from subscribers within the Commonwealth of Pennsylvania of not less than fifteen thousand dollars per annum, duly certified by a public accountant, and the rates and charges for such advertising shall not be in excess of those of newspapers of general circulation, as defined by the Newspaper Advertising Act of a like circulation, published in the community in which the public works are to be constructed or the supplies or equipment purchased.

Sections 901 to 909, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 11. Sections 901 to 909 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

ARTICLE IX

TAXATION AND FINANCE [ROAD FUND]

Section 901. *Fiscal Year.*—The fiscal year in townships of the second class shall commence on the first Monday *of January in each year. All receipts, disbursements, contracts, and purchases shall be chargeable to and entered as of record in the fiscal year in which made.

Section 902. *Annual Budget.*—A. (1) The board of township supervisors [of townships of the second class] shall annually, [before] *immediately after* their organization meeting in January, [or as soon thereafter as practicable,] and at least thirty days prior to the adoption of the annual budget prepare a proposed budget

* "in," in original.

or annual estimate of revenues and expenditures for the fiscal year, beginning on the first Monday of January, which shall be filed with the treasurer. In all townships [in which the estimated expenditures in the budget exceed five thousand dollars (\$5000)], the budget shall be prepared on a uniform form, prepared and furnished as hereafter provided. The estimates in the budget, [for the purpose of aiding the board in determining how much road and other taxes to levy] shall specify:

(a) The amount of money necessary for the *construction*, maintenance, repair, and improvement of [highways, including sluices] *roads*;

(b) The amount of money necessary for the [repair and] *construction, maintenance, and repair* of culverts and bridges;

(c) The amount of money necessary for the purchase, hire, repair, and custody of [tools, implements, and machinery] *equipment, machinery, teams and implements*;

(d) The amount of money necessary for each other governmental activity of the township, for which a special tax levy may or may not be authorized;

(e) The amount of money necessary for the payment of debts, [or] *and* other miscellaneous purposes.

(2) Upon the preparation of [a] *the* proposed budget [in which the estimated expenditures exceed five thousand dollars (\$5000)], the supervisors shall [either] give public notice [of the detailed contents thereof, or the fact] *by advertisement once in at least one newspaper of general circulation in the township or county* that the proposed budget will be available for public inspection at a designated place in the township. After [the expiration of twenty (20) days following the giving of public notice of the detailed contents of the budget, or after] the budget has been available *for public inspection* for twenty [(20)] days [as herein provided, such] *the* supervisors shall, after making such revisions therein as appear advisable, adopt the budget and the necessary appropriation measures required to put it into effect. [In townships in which the estimated expenditures do not exceed five thousand dollars (\$5000), the supervisors shall, as soon as possible after the expiration of thirty days following the preparation of the proposed budget, adopt the budget and the necessary appropriation measures required to put it into effect.]

(3) The total appropriation shall not exceed the revenues estimated as available for the fiscal year. In all townships [in which the estimated expenditures in the budget exceed five thousand dollars (\$5000)] the

board of supervisors shall, within fifteen days after the adoption of the budget, file a copy of the same in the office of the Department of Internal Affairs.

(4) The supervisors 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. Such supplemental appropriations may be made whether or not an appropriation for the same purpose was included in the original budget as adopted, except that no supplemental appropriation shall be made for any purpose in respect to which the court on an appeal pursuant to section nine hundred eight of this act has ordered a specific reduction or elimination of an item of the original budget for the same purpose.

(5) The supervisors may by resolution, transfer unencumbered moneys from one [road] *township* [tax] account to another, but no moneys shall be transferred from the fund allocated for the payment of debts or from any fund raised by a special tax levy for a particular purpose. Such transfers shall not be made during the first three months of the fiscal year. No money shall be paid out of the township treasury except upon appropriation made according to law.

[Section 902 A] *B.* The uniform forms for the annual budget, [and for] the annual *township* report, [to the Department of Internal Affairs, to be used as herein provided] *and the annual financial statement required to be made by the auditors*, shall be prepared by a committee consisting of four representatives [from] of the [Pennsylvania] State Association of Township Supervisors *and one representative each* from the [State] Department of Highways, and the [Secretary] *Department of Internal Affairs* [or his agent].

Such representatives of the *State Association of Township Supervisors* shall be appointed by the president of the organization [within sixty days after the effective date of this act. As far as possible, such] *Such representatives may be either township supervisors, auditors or township secretaries, and, as far as possible*, shall be chosen to represent townships in the various population groups among the range of townships of the second class. The president of the organization shall supply to the Secretary of [Internal Affairs] *Highways* the names and addresses of such representatives, immediately upon their appointment. [The representative of the Department of Highways shall be appointed by the Secretary of Highways.]

Such representatives of the townships shall serve without compensation, but shall be reimbursed by the Commonwealth for all necessary expenses incurred in attending meetings of the committee *from appropriations made to the Department of Highways*. The committee shall meet at the call of the Secretary of [Internal Affairs] *Highways*, or his agent, who shall serve as chairman of the committee.

In preparing [the] *such* uniform forms, [for both budgets and annual reports] the committee shall give careful consideration to the fiscal needs and procedure of townships of the various population groups producing separate forms, if necessary, to meet the needs of *townships of varying sizes. [In the preparation of] *The form for [financial] annual reports [the same] shall contain the information, herein specifically required to be furnished, and such other information as the committee shall deem proper, and shall be [so] arranged [that corresponding information required to be reported to the Department of Highways may be used for the information required to be furnished to the Department of Internal Affairs] to correlate with the forms for the budget, respecting order of items, and division of revenues by major classifications, and disbursements by major functions. The committee shall also prescribe the form of the statement summarizing the annual report, which is hereinbefore required to be published.*

It shall be the duty of the Secretary of [Internal Affairs] *Highways* [or his agent] to see to it that the forms required by this act are prepared in cooperation with such committee. In the event that such committee should, for any reason, fail to furnish such cooperation, the [Secretary of Internal Affairs or his agent] *representatives of the Department of Highways and Department of Internal Affairs* shall prepare the forms. After they are prepared, [he] the Secretary of [Internal Affairs] *Highways* shall issue such forms and distribute them annually, as needed, to the proper township officers.

Section 903. Temporary Indebtedness.—Whenever the township [highway] *road* funds have been exhausted, the board of supervisors may borrow, on the credit of the township, money in anticipation of taxes to be collected for the current fiscal year [or township reward to be received as shown by agreements issued,] and issue a certificate of indebtedness payable on a certain date [not exceeding one year from the date of issue] *within the current fiscal year*, to the end that work may be performed in proper season and in accordance with rules and regulations prescribed.

* "township" in original.

Section 904. Sale of Bonds.—Bonds and other obligations, issued for the repayment of money borrowed, except tax anticipation notes, shall be issued and sold in the manner provided by the Municipal Borrowing Law, and its amendments.

Section 905. [General] Township and Special Tax Levies.—A. The board of township supervisors may, by resolution, levy taxes upon all *real* property and upon all occupations, or upon *real* property alone, within the township made taxable for township purposes, as ascertained by the last adjusted valuation for county purposes, for the purposes and at the [rate] *rates* hereinafter specified. [to wit:] *All taxes shall be collected in cash.*

1. * [One] An annual [road] *township* tax, for road, bridge, and general township purposes, not later than the fourth Monday of March of each year, not exceeding [seven] *nine* mills except where necessary to pay existing indebtedness and interest thereon, in which case *not more than* two additional mills may be levied. Where the board of supervisors, by a majority action, shall, upon due cause shown, petition the court of quarter sessions for the right to levy additional millage, the court, after such public notice as it may direct and after hearing, may order a greater rate than [nine] *eleven* mills, but not exceeding [seven] *five* additional mills, to be levied. Such annual [road] *township* tax shall include all levies for road, *bridge and general township* purposes and for the payment of bonds and certificates of indebtedness issued and all other debts incurred for [road] *such* purposes. Not less than ten per centum of the annual [road] *township* tax shall be set aside by the respective townships and used for the payment of existing indebtedness incurred for [road] *such* purposes, for the payment of which indebtedness no provision has been made. [All road tax shall be collected in cash.]

[**Two. A tax for the purpose of building and maintaining a lockup, after obtaining the assent of the electors of the township in the manner provided in this act.]

2. [Three an] *Upon receipt of a petition of a majority of the owners of real estate of the township requesting it, an annual [assessment] tax, not exceeding five mills, for the purpose of lighting the [streets and] highways, roads and other public places in the township, in the manner provided by the general powers of this act, and of defraying the cost, charges and expenses thereof. Nothing contained herein shall require a peti-*

* "[One]," omitted in original.

** "2," in original.

tion of owners of real estate in any township, which is now lighting its streets and imposing taxes under this subsection for such purposes.

3. [*Four.] An annual tax so long as **necessary not exceeding fifty per centum of the rate of assessment for [road purposes] *the township tax*, for the purpose of procuring a lot and erecting a building thereon for a townhouse, and for the payment of indebtedness incurred in connection therewith: Provided, The total indebtedness for the payment of which any such tax shall be levied shall not exceed one-half of one per centum of the assessed value of real estate in the township.

4. [***Five.] A tax, not exceeding two mills, and not exceeding the amounts hereinafter limited, for the purpose of purchasing and maintaining fire apparatus and to provide, with the assent of the electors of the township as hereinafter provided, a suitable place for the housing of the same, and to make appropriations to fire companies for the purchase and maintenance of fire apparatus; but the total expenditure for the purchase of fire apparatus by the township, together with the amount of appropriation to one or more fire companies from such taxes, shall not, for the first fiscal year, exceed in all the sum of seven thousand five hundred dollars; nor shall any new fire apparatus be thereafter purchased by the township, or by any fire company from appropriations made by the township, without the consent of the electors as hereinafter provided; nor shall the total expenditure by the township, in any fiscal year, for the purpose of maintenance and operation, together with the appropriations to any one or more fire companies, exceed forty-five hundred dollars.

5. [****Six.] A tax exceeding [one mill] *two mills* for the purpose of establishing and maintaining fire hydrants and fire hydrant water service, after obtaining the assent of two-thirds of the electors of the township voting thereon, in the manner provided in this act.

6. *A tax, not exceeding two mills, for the purpose of maintaining and operating parks, playgrounds, playfields, gymnasiums, public baths, swimming pools and recreation centers as hereinafter provided.*

B. Whenever the assent of the electors is required as hereinbefore provided the same shall be expressed at an election to be held at the place *and time of any general, special or primary election*, and under the same regulations as provided by law for the holding of municipal elections. At such election, the election officers

* [4], in original.

** "necesasry," in original.

*** "[5]," in original.

**** "[6]," in original.

shall receive ballots from the electors, which shall be prepared in the manner prescribed by the [general election law] *Pennsylvania Election Code*. [In receiving and counting and in making return of the votes cast, the election officers shall be governed by the laws regulating municipal elections, and the returns shall be computed by the court as now provided by law for municipal elections.]

The taxes authorized to be levied by this section shall be levied upon the last adjusted valuation for county purposes, which valuation shall be furnished to the township supervisors by the county commissioners. If any further adjustment of valuation is made by the county commissioners, after any tax is so levied and before said tax is payable, such adjusted valuation shall be certified to the township supervisors and to the township collector of taxes by the commissioners, and the tax shall be collected on the basis of such adjusted valuation.]

C. This article does not include the levy of any taxes upon particular districts or parts of any township for particular purposes.

Section 906. Tax Rate to be Expressed in Dollars and Cents.—Whenever the supervisors of any township shall, by resolution, fix the rate of taxation for any year at a mill rate, such resolution shall also include a statement expressing the rate of taxation in dollars and cents on each one hundred dollars of assessed valuation of taxable property.

Section 907. Special Levies Ordered by Court to Pay Debts.—In addition to the levies hereinbefore provided for, when it is shown to the court of quarter sessions that the debts due by any township exceed the amount which the supervisors may collect in any year by taxation, the court, after ascertaining the amount of indebtedness of any such township, may, by a writ of mandamus, direct the township supervisors, by special taxation, to collect an amount sufficient to pay the same. If the amount of such indebtedness is so large as to render it inadvisable to collect the same in any one year taking into consideration other necessary taxation, the court may direct the same to be levied and collected by annual instalments, and may order such special taxes to be levied and collected during such successive years as may be required for payment of the same.

Section 908. Appeals to Court to Reduce Budget and Tax Rate.—(a) Taxpayers whose property valuation as assessed for taxable purposes within the township shall amount to twenty-five per centum or over of the total valuation as assessed for taxable purposes within

the township, may, within fifteen days after the board of township supervisors have [completed the formation of] *adopted* the budget and determined the amount of the tax levy for the [district] *township*, petition the court of common pleas of the county in which such township is located to examine into the necessity therefor and the reasonableness of the various items in the budget of the township and to reduce the proposed tax levy. Each such petition *shall contain a specification of objections and shall be accompanied by the affidavit of one of the petitioners that the proceedings have not been instituted for the purpose of delay, and that the facts set forth in the petition are true and correct to the best of [their] his knowledge and belief.* The [petitioner] *petitioners* shall also file bond in the *total* amount of five hundred dollars [(\$500)] with good and sufficient surety to be approved by the court, conditioned upon the payment of the costs if the court shall assess the costs upon the petitioners.

Immediately upon the filing of such petition, the petitioners shall serve a copy of the petition [and the specifications of objections] upon the president or secretary * [or] of the board of township supervisors.

(b) Upon the filing of such petition, the court shall fix a day for a hearing not less than fifteen [(15)] nor more than thirty [(30)] days after such petition has been filed. Notice of such hearing shall be given to all interested parties in such manner as the court shall direct. On such hearing, it shall be the duty of the court to examine into the necessity for and the reasonableness of the various items of the budget and the amount of the proposed levy. The court shall thereupon make an order approving the budget and levy or reducing or eliminating any one or more of the items of the budget and reducing the levy.

If no appeal shall be taken from such order as herein provided, the budget and levy shall remain as constituted by the court.

(c) The board of township supervisors [of such township,] or any [freeholders] *taxpayers* who shall have signed the petition, may appeal to the Supreme Court within thirty [(30)] days after the entry of the order by the court of common pleas. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Supreme Court. [The record, which shall be certified to the Supreme Court, shall contain all that was before the court of common pleas.]

(d) Neither the filing of any such petition, nor the taking of such appeal, shall act as a supersedeas.

* "[of] or," in original.

[However any contract, agreement, or undertaking which relates to or is dependent upon an item of the budget which has been attacked in the petition, and which shall be entered into by the township during the pendency of such proceedings, shall be subject to such reduction or cancellation as shall become necessary as the result of the order of the court of common pleas or the Supreme Court.

Each levy of taxes which shall be made during the pendency of such proceedings shall likewise be subject to revision in accordance with such order.]

(e) The budget and tax levy as approved or revised by the *final order of the court of common pleas, or, of the Supreme Court, if an appeal shall have been taken, [by the Supreme Court,]* shall be the budget and tax levy for such township. Any contract, agreement, or undertaking which relates to an item of the budget which has been attacked in the petition, and which shall be entered into during the pendency of such proceedings, shall be cancelled or made to conform to such budget.

If such final order reduces the *proposed* levy, the supervisors shall revise the tax duplicates in conformity with such order *and any levy, made during the pendency of the proceedings, shall be subject to revision in accordance with such order.*

Section 909. Duplicates; Abatements and Penalties.—The township supervisors shall make or cause a duplicate to be made designating the amount of [road] *township* tax levied against each taxpayer of the township, and also duplicates for all other taxes levied and assessed under the provisions of this act, and shall deliver the same, [on or before the first day of May of each year] *as soon as possible after receipt of the assessment roll from the county,* to the township collector. [together with a warrant for the collection of the same, which taxes shall be collected as follows, namely: To all taxpayers who pay their taxes to the collector before June first of each year, an abatement of five per centum shall be made. All taxes paid to the collector between June first and October first of each year shall be paid in full; and to all taxes remaining unpaid on the first of October in each year, the collector shall add five per centum as penalty for such delinquency, and shall collect said penalty in addition to the tax levied.]

Act of May 1,
1933 P. L. 108,
amended by add-
ing new sections
910 and 911.

Section 12. The said act is hereby amended by adding thereto two new sections, known as sections 910 and 911 as follows:

Section 910. Revolving Fund; Special Tax; Bond Issue.—Townships are hereby empowered to levy and collect annually, a tax upon all property taxable for

township purposes, not to exceed five mills on the dollar in any one year, for the purpose of creating and maintaining a revolving fund to be used by such township in making permanent street, sidewalk, water supply, or sewer improvements prior to the collection of the cost and expense, or any part thereof, from the property owners adjoining or abutting thereon by such township under existing laws. Any such revolving fund may also be begun by funds raised through the issuance of bonds of the township, in the manner provided by law, for the making of permanent street, sidewalk, water supply or sewer improvements.

Section 911. Repayments Into Revolving Fund.—When the cost and expense, or any part thereof, of the construction of any permanent street, sidewalk, water supply or sewer improvement, which has been made under existing laws, and which has been aided in its construction from the said revolving fund, hereby provided for, shall have been assessed and collected from the owners of the property adjoining or abutting upon such improvement, it shall be applied to the credit of said revolving fund to the extent of the withdrawal therefrom for such purpose.

Section 13. Sections 1001 to 1015 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

Sections 1001 to 1015, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

ARTICLE X

EMINENT DOMAIN; ASSESSMENT OF DAMAGES AND BENEFITS

(a) General Provisions Relating to Eminent Domain

Section 1001. Scope of Article.—Whenever under the provisions of this act, the right of eminent domain [and /] or the ascertainment and assessment of damages and benefits in viewer proceedings is provided for and vested in a township, the proceeding shall be as set forth in this article.

Section 1002. Restrictions as to Certain Property.—In addition to the restrictions made by other provisions of this act in particular cases, no township shall exercise * right of eminent domain as against land now occupied by any building which was used during the Colonial or Revolutionary period as a place of Assembly by the Council of the Colony of Pennsylvania, the Supreme Executive Council of the Commonwealth of Pennsylvania, or the Congress of the United States; or as against the land occupied by any fort, redoubt, or block-house, erected during the Colonial or Revolutionary period, or any building used as headquarters by the Commander-in-Chief of the Continental Army; or as against the site of any building, fort, redoubt, block-

* "the," in original.

house, or headquarters, which are preserved for their historic associations and not for private profit. The Colonial and Revolutionary period shall be taken as ended on the third day of September, one thousand seven hundred and eighty-three.

Section 1003. Possession of Property upon Tender of Bond.—Whenever, in any condemnation proceedings, any township has tendered a bond to secure the payment of damages, and the same has been accepted, or, if the acceptance has been refused and the bond has been filed in and approved by the court, the township shall have the right to immediate possession of the property.

Section 1004. Notice to Quit; Possession; Procedure.—If the owner, lessee, or occupier shall refuse to remove his personal property or give up possession, the township may serve written notice upon such owner, lessee, or his agent, or the occupier, to remove his personal property and give up possession of such property within sixty days from the date of the service of such notice.

If the owner, lessee, or occupier shall refuse to remove his personal property and give possession, upon proof of the service of the notice, a writ of habere facias possessionem shall forthwith issue, directing the sheriff to give to the township possession.

Section 1005. Bond of Township Without Surety Sufficient.—Whenever *the township shall tender any bond*, or any court shall order any township to enter security for the payment of damages for the taking, injury, or destruction of land, property or materials, by right of eminent domain, the bond of the township shall be taken without sureties.

Section 1006. Value of Land or Property Not to Be Assessed as Benefits; Exception.—In all cases of the appropriation of land or property for public use, other than for roads, [or streets] it shall not be lawful to assess any portion of the *damage done to or value of the land or property, so appropriated, against the other property adjoining or in the vicinity of the land or property so appropriated.

Section 1007. Viewers Report.—Viewers or juries of view appointed by any court to assess damages and benefits, due to the taking, injury or destruction of private land or property in and by the construction or enlargement of any public work, [highway] road, or improvement, shall make their reports within a time which the court shall fix when appointing them, but, if any of the viewers or juries of view shall, for any reason appearing sufficient to the court, be unable to file its 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.

* "damages," in original.

Section 1008. Plans of Properties Condemned to Be Furnished to Viewers.—In all proceedings to assess damages for the taking, injury or destruction of private *land or* property for public use, the township taking, injuring or destroying *such land or* property for said purpose shall furnish the board of viewers with a correct plan of all *lands and* 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 *lands or* properties, and all other data necessary for a proper determination of the amount of damages caused by the taking, injury or destruction of said private *land and* property.

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 *land and* property, and all other parties affected thereby without charge.

Section 1009. Condemnation Petition to Specify Liens; Exception.—In all proceedings instituted for the condemnation and appropriation of land and property by the exercise of the right of eminent domain, excepting proceedings to ascertain damages and benefits by reason of township street or sewer improvements, the petition for the appointment of viewers therein shall contain allegations specifying any judgments, mortgages or other claims (hereinafter designated “liens”) which are liens upon the land and property sought to be appropriated or condemned as aforesaid.

Section 1010. Findings of Facts as to Liens.—Testimony shall be taken in said proceedings to ascertain the amounts of said liens and the dates of the entry of the same, and the amounts of said liens and the dates of entry thereof shall be found as facts by the viewers in said proceedings. Certified lists of liens, from the *Department of Revenue*, the courts of the Commonwealth and of the United States, shall be prima facie evidence of the existence, dates, amounts, dates of entry, and places of record, of said liens, and, unless modified or overcome by *competent* oral or documentary evidence, shall be conclusive upon the parties thereto as to items just specified.

Section 1011. Reports of Viewers as to Liens; Appeals; Distribution to Lien Creditors; Discharge of Liens.—Where it appears that liens exist as aforesaid, which are liens upon *land or* property sought to be condemned and appropriated as aforesaid, a report of the facts found as aforesaid shall be made to the court hav-

ing jurisdiction of the proceeding, which report shall be subject to exceptions in manner to be regulated by the Supreme Court, by general rule prescribed, amended, and published from time to time, and, upon the findings in relation to said liens being finally found by said court having jurisdiction of said proceedings, said court shall make an order directing the payment and distribution of the amount found to be payable as compensation to the parties entitled thereto, first to the owners of said liens *in the order of their priority*, then to the owners of the *land or property* appropriated as aforesaid. [Provided, however, That] *Any of the parties interested shall have the right of appeal from said order of distribution to the Superior or Supreme Courts of the Commonwealth, as shall be determined by the amount distributed to said parties, respectively, in manner now provided by law.* Payment in accordance with said order of distribution shall absolutely discharge the party making said payment from all claims of whatsoever nature by any [person, firm, corporation, or] claimant, as against said *land or property*, when the payment thereof shall be evidenced by a receipt of record in said proceedings; and in said receipt and on the record thereof, any claimant may reserve the right to pursue the owner of said *land or property* for any balance due upon his lien against any other *land or property* or assets of the said owner.

Section 1012. Vesting Title.—Upon payment of the compensation for land or property appropriated as aforesaid, in accordance with said order of distribution, title to the land or property appropriated shall vest in the [taker thereof] *township* in accordance with provisions of the law under which such appropriation is made, and all claims for compensation shall be deemed paid and satisfied as herein provided.

Section 1013. Competency of Evidence as to Market Value of Property.—In all proceedings arising from the exercise of the right of eminent domain, it shall be competent for all witnesses called, when duly qualified, to state their opinion as to the market value of the *land or property* before the exercise of the right of eminent domain and as unaffected by it, and its market value immediately after the exercise of the right of eminent domain and as affected thereby:

(a) To state, in detail and [costs] *amounts*, all the elements of benefit or damage which they have taken into consideration in arriving at their opinion;

(b) In arriving at their opinion as to the market value immediately after the exercise of the right of eminent domain, to add to their opinion of the market

value before such exercise the cost or value of all the elements of benefit or advantage, and to deduct therefrom all disadvantage or damage in order to arrive at the market value after such exercise of the right of eminent domain and as affected thereby;

(c) In all proceedings to assess damages or benefits for the opening of any [street, alley, or other highway] *road*, to take into consideration, as one of the elements of advantage or disadvantage, the cost of [street] *road* improvement.

In all claims for damages against a township, arising from the exercise of the right of eminent domain, it shall be competent for the party or parties claiming damages to offer in evidence, as a declaration against interest, the value of the *land* or property affected as assessed for the purpose of taxation.

Section 1014. Proceedings Where Assessments by Viewers Waived.—In any proceeding to ascertain the damage caused to any owner of lands or *properties* by reason of the appropriation of a right of way or easement by any township, where the owner and township cannot agree upon the amount of damage done, the parties may, by agreement, waive the right to have such damages assessed, and the owner may file his claim in the court of common pleas of the county, and rule the [defendant] *township* to plead thereto within fifteen days from the service of such rule upon [the township] *it*, and the suit shall be proceeded with as if an award of viewers had been filed and an appeal had been taken therefrom.

Either party to such an action may, on motion, have the jury visit and view the premises over or through which the proposed right of way or easement may extend.

Section 1015. Appeals in Eminent Domain Proceedings; Payment of Money into Court.—In all cases of damages assessed against any township for *land* or property taken, injured or destroyed by the construction or enlargement of its works, [highways] *roads*, or improvements, whether such assessment shall have been made by viewers, or otherwise than upon trial in court, [and an appeal is not provided for,] an appeal may be taken by either party to the court of common pleas of the county within thirty days from the filing of the report.

Any such appeal taken shall be signed by the party taking the same or by his agent or attorney, and shall be accompanied by an affidavit of [the] *such* party, [appellant] or of [the] *his* agent or attorney, that the same is not for the purpose of delay, but because the affiant firmly believes that injustice has been done.

When no such appeal is taken and judgment is entered, and the party to whom damages have been awarded refuses to accept payment of such award or judgment, then it shall be lawful for [such] *the* township, upon petition to the court, after notice as ordered by court, to pay the amount of the award and costs into the court. The court, upon such payment, shall order the satisfaction of the award or judgment.

Act of May 1,
1933 P. L. 103,
amended by add-
ing new sections
1016 and 1017.

Section 14. The said act is hereby amended by adding thereto, two new sections, known as sections 1016 and 1017.

Section 1016. Title Acquired.—In all cases where land or property is taken under eminent domain proceedings, other than for road purposes, or is acquired by gift, purchase or otherwise, the title obtained by the township shall be in fee simple: Provided, That in particular instances a different title may, by agreement, be acquired.

Section 1017. Land Transferable.—If the project or purchase for which any land or property has been taken, received or acquired in fee simple shall be abandoned or found not to be desirable for the best interests of the township, the land or property thus obtained may be used for other township purposes or sold, leased or otherwise disposed of.

Sections 1020
to 1101, act of
May 1, 1933
P. L. 103, reen-
acted, revised
and amended.

Section 15. Sections 1020 to 1101 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

(b) Procedure for the Exercise of Eminent Domain and for the Assessment of Damages and Benefits

Section 1020. Petition for Viewers; Time of Meeting.—Except as [is in this act] otherwise provided *in this act*, in case the compensation for damages or benefits accruing from the exercise of the right of eminent domain [and] or from the erection and construction of public improvements [have] *has* not been agreed upon, the court of common pleas, or any law judge thereof in vacation, on application thereto by petition by the township or any person interested, shall appoint three viewers from the board of viewers of the county, and appoint a time, not less than twenty nor more than thirty days thereafter, when the viewers shall meet [upon the line] *at the place* of the improvement and view the same and the premises affected thereby.

Section 1021. When Viewers May Be Appointed.—The viewers provided for in the preceding section may be appointed before or after the entry, appropriation, or injury of any *land or property or appropriation of any materials* for constructing such improvements.

Section 1022. Notice of Meeting of Viewers.—Except [when] *as* otherwise [in this act] provided *in this act*, the viewers shall give at least ten days' notice of the time of their first meeting, by publication in one or more newspapers of the county, and by handbills posted upon the premises, or otherwise as the court shall direct.

Section 1023. Swearing Viewers; Hearings; Schedules of Damages and Benefits.—The viewers, having been sworn or affirmed faithfully, justly, and impartially to decide and a true report to make concerning all matters to be submitted to them and in relation to which they are authorized to inquire, and having viewed the premises and examined the *land or* property, shall hear all parties interested and their witnesses and shall determine the damages for *land or* property taken, injured or destroyed, if any, and to whom the same are payable; and, having determined the damages, together with the benefits, they shall prepare a schedule thereof.

Section 1024. Assessment of Damages and Benefits.—The damages may be paid in whole or in part by the township, or may be assessed in whole or in part upon the property benefited. In the latter case, the viewers, having first determined the damages apart from the benefits, shall assess the total cost of the improvement, or so much thereof as may be just and reasonable, upon the properties peculiarly benefited, including in the assessment all parties for which damages have been allowed, and shall report the same to the court. The total assessment for benefits shall not exceed the total damages awarded or agreed upon.

Section 1025. Assessment Awards.—In proceedings to assess damages and benefits, if the *land or* property is both benefited and damaged by such improvements, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the [several owners] *owner of land or* property affected thereby.

Section 1026. Separate Reports of Damages and Benefits.—The [preceding section shall not prevent *the] viewers [from] *shall make* [***making*] a separate report of the damages and benefits, respectively. [In such event, if] *If* the damages to the *land or* property of any person be greater than the benefits, or if the benefits be greater than the damages, or if the damages and benefits be equal, [in either case] the viewers shall strike a balance and carry the difference forward to another column, so that the assessment shall show what amount is to be received or paid by the *land or* property owner and the

* "the," omitted in original.

** "[making]." omitted in original.

difference only shall be collectible of or paid to such *land or property owner*. Appeals taken from the report of the board of viewers shall be from such net amount only.

Section 1027. Notice When Schedules Will Be Exhibited.—The viewers shall give notice to all parties to whom damages are allowed, or upon whom assessments for benefits are made, of a time not less than ten days thereafter, and of place where the viewers will meet and exhibit their schedule and hear all exceptions thereto.

Section 1028. Service of Notices.—[Such] *The notice, required by the preceding section*, shall be given in the manner provided by law for the service of a summons in a personal action, if the parties can be found in the [township] *county in which such township is located*; or upon an adult person residing upon the *land or property affected by the assessment*, in case the owner or reputed owner cannot be found *in said county*; and to all others by publication in the newspaper or newspapers in which the first notices of the view were published, and by posting conspicuously on the premises. The board of supervisors [may] *shall* by resolution provide by whom the notice shall be served and posted and fix the compensation for such service.

Section 1029. Report of Viewers; Plan of Improvements.—After making whatever changes are necessary, the viewers or a majority thereof shall report to the court showing the damages and benefits allowed and assessed in each case, and file therewith a plan to be prepared or secured by the viewers, showing the improvement, the *lands or properties taken, injured or destroyed, and the land or properties benefited*.

Section 1030. Notice of Filing of Report.—When the report is filed, notice thereof shall immediately be given by *the viewers by publication once in the newspaper or newspapers [publishing the notice hereinbefore provided for in this article] in which the first notices of the view were published*. Such notice shall state the date of filing of the report, contain a schedule of the damages allowed and benefits assessed, and shall state that, unless exceptions be filed thereto or an appeal to the court of common pleas is taken therefrom within thirty days from the date of filing, the report will be confirmed absolutely.

Section 1031. Township to Pay Costs of Proceedings.—The cost of the proceedings, including court costs, except the compensation of the viewers, shall be paid by the township.

Section 1032. Bond of Township.—Except when [in this act] otherwise provided *in this act*, in all cases

where the parties have not agreed upon the damages claimed, or where, by reason of the absence or legal incapacity of the owner, no such agreement can be made, the township may tender sufficient security to the party entitled to damages, or to the attorney or agent of any person absent, or to the agent or officer of a corporation, or to the guardian or committee of any one under legal incapacity.

Section 1033. Condition of Bond; Notice of Filing in Court.—The condition of the security shall be that the township shall pay, or cause to be paid, such amount of damages as the party shall be entitled to receive after the same shall have been agreed upon by the parties or assessed in the manner provided for by this article. In case the party claiming damages refuses to accept the security tendered, the township shall give the party, or his agent, attorney, guardian or committee, a written notice of the time when the same will be presented in court.

Section 1034. Filing Bond; Recovery Thereon.—If approved by the court, the security shall be filed for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed. If the damages be not paid, they may be collected by execution on the judgment in the issue framed to try the question. Upon the approval of the security, the township may proceed with the improvement.

Section 1035. Exceptions to Report of Viewers.—Within thirty days after the filing of any report, any party interested may file exceptions to the same; and the court shall confirm, modify, or change the same, or change the assessments made therein, or refer it back to the same or new viewers.

Section 1036. Confirmation of Report of Viewers.—When the report is filed, the prothonotary shall mark it confirmed nisi. In case no exceptions are filed thereto, *as provided in the preceding section*, or no appeal taken, he shall enter a decree that the report is confirmed absolutely.

Section 1037. Effect of Exceptions on Confirmation of Report.—When exceptions are filed which affect the entire report, the same shall not be confirmed absolutely as to any part thereof until the exceptions have been finally disposed of; when the exceptions do not affect the entire report, the court shall confirm the assessments to which exceptions have not been taken.

Section 1038. Appeals from Confirmations after Exceptions.—Within three months after the confirmation of any report, following the filing of exceptions thereto, any party interested may appeal from the decree of the

court below to the Superior or Supreme Court, as the case may be.

Section 1039. Effect of Appeals.—When any appeal is taken from the action of the court confirming any viewers' report or part thereof, if the appeal affects the entire report, it shall have the effect of suspending the absolute confirmation thereof until the appeal is finally disposed of; but where the appeal is to matters which do not affect the entire report, or any other assessment, such appeal shall affect only the particular assessment for which the appeal is taken.

Section 1040. Filing Assignments of Error, Et Cetera.—In order to determine whether any appeal affects the entire report, or any particular assessment, the *appellant shall file in the court below, before or at the time of filing his writ of certiorari, a copy of his [specifications or] assignments of error or a *statement of the grounds of appeal*. Upon failure so to do, the township or any party interested may, by notice or rule upon the appellant, cause such [specifications] assignments of error, or *statement of the grounds of appeal*, to be filed.

Section 1041. Certificate of Judge of the Court Below.—Upon the request of the township, or any party interested, the court below, or any judge thereof in vacation, shall certify whether the appeal affects the entire report, and said certificate shall be conclusive. Where the court or judge certifies that the appeal will affect the entire report, no further proceedings shall be taken in the court below until after the final action of the appellate court; but where the court or judge certifies that the appeal will affect only a particular assessment, then the confirmation of all other assessments shall be final.

Section 1042. Effect of Affirmation of Decree of Court Below.—If, on any appeal, the action of the court below is affirmed, the date of the decree or judgment of the appellate court shall be taken as the day on which the report was finally confirmed.

Section 1043. Consolidation of Appeals.—Where any appeal is taken to the Supreme Court, and an appeal is also taken to the Superior Court, and the appeals in both cases are substantially the same, the Superior Court may certify such appeal to the Supreme Court to be heard with the other appeals from the same report.

The Supreme Court shall consolidate all such appeals and hear them as one case. Where several appeals are taken from the confirmation of the same report, either to the Superior or Supreme Court, and the grounds of the

* "applicant," in original.

appeal are similar, the appellate court may consolidate the appeals.

Section 1044. Appellants May Unite in Appeals; Effect Thereof.—Several parties may unite in a single appeal, either to the Superior or Supreme Court, where the grounds of appeal are similar, but the uniting of the appellants shall not unite the amounts or change the jurisdiction. When the appeal, if taken by each appellant singly, would be to the Superior Court, then the appeal shall be to that court; but if the appeal of any one appellant would be to the Supreme Court, then the joint appeal shall be to that court. If an appeal has been taken to the Supreme Court, any other party, without regard to the amount involved, if the grounds of appeal are similar, may appeal to the same court and join in such appeal.

Section 1045. Appeals from Reports of Viewers for Jury Trial.—Within thirty days after any report of viewers is filed in court, any party whose *land or property* is taken, injured or destroyed, or against whom benefits are assessed, may appeal to the court of common pleas and demand a trial by jury. *Several parties may unite in a single appeal, and where the grounds of appeal are similar, the court may hear such appeals as one proceeding, but each such party shall, in any event, be entitled to demand a separate trial by jury.* Where an appeal is so taken as to a portion of the report, the portion not appealed from shall be confirmed absolutely at the expiration of thirty days [after the report is filed in court] *from the date of the publication of the notice of the filing of such report.*

Section 1046. Reasons for Appeals to Be Stated.—The appeal, as provided in the last preceding section, shall state the grounds upon which it is taken, and shall be signed by the appellant, or by his agent or attorney, and shall be accompanied by an affidavit that it is not taken for the purpose of delay but because the appellant believes that injustice has been done.

Section 1047. Costs.—Upon the trial of any such appeal, in case the party appellant does not obtain a verdict more favorable than was the report of the viewers, [as finally confirmed] the appellant shall not recover any costs.

Section 1048. Notices; Appeals from the Court Below.—The court of common pleas shall order what notices shall be given in connection with such proceedings, and may, by rule or otherwise, prescribe the form of pleadings. After verdict and final judgment, either party may, within three months, appeal to the Superior or Supreme Court.

Section 1049. Appeals to the Wrong Court.—Should any appeal under this article be made to the wrong court, such court shall certify the appeal to the court to which it should have been taken.

Section 1050. Appeals Not to Prevent Filing Liens.—No appeal taken under this article shall prevent the filing of liens by any township for any assessment made by any such report, but upon the final termination of the issue, the court shall make such order as to the lien filed as shall appear right and proper.

Section 1051. Discontinuance of Proceedings.—If any township shall repeal any resolution, or discontinue any *proceeding, providing for any improvements prior to the entry upon, [taking] *appropriation of*, or injury to, any *land or property or appropriation of materials*, the township shall not be liable to pay any damages which have been assessed, but all costs upon any such *proceeding shall be paid by the township, together with any actual damage sustained by reason of such proceeding.

Section 1052. Assessments to Bear Interest.—All assessments for benefits, costs, and expenses shall bear interest at *six per centum per annum from* the expiration of thirty days after they shall have been finally ascertained, and shall be payable to the treasurer of the township.

Section 1053. Damages to Bear Interest.—The amount of damages allowed in a report of viewers for the taking, injury or destruction of *land or 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 **the filing of the report.

ARTICLE XI

ROADS, STREETS AND HIGHWAYS

- (a) Laying Out, [Roads Under the General Road Law] *Opening, Widening, Straightening, Vacating and Relaying Roads, Et Cetera, Repairs and Detours*

Section 1101. [Except as otherwise in this act provided, or except as otherwise provided by local or special legislation, all roads wholly within or partly within townships, shall be laid out, widened, changed, or vacated by the courts of quarter sessions, as heretofore, in the manner provided by the general road law and the amendments, additions, and supplements thereto. All damages and benefits occasioned by such laying out and the subsequent opening thereof, or by any such widening, changing, or vacation shall be assessed, collected,

* "proceedings," in original.

** "the," omitted in original.

and paid in the manner provided by the general road law and the amendments, additions, and supplements thereto.] *Power to Lay Out, Open, Widen, Vacate, Et Cetera.*—The township supervisors may enact, ordain, survey, lay out, open, widen, straighten, vacate and relay all roads and parts thereof which are wholly within the township, upon the petition of a majority in interest of the owners of property or properties through whose land such road passes, or upon whose land it abuts, or without petition of the owners of *abutting property, if in the judgment of the supervisors, it is necessary for the public convenience. Such power shall include authority to vacate, in whole or in part, roads laid out by the Commonwealth, where the same have remained unopened for a period of thirty years, and also the authority to lay out and open a public road which will be a continuation or extension of a street already opened by an adjacent city or borough.

No such road shall be laid out and opened through any burial ground or cemetery, nor through any grounds occupied by a building used as a place for public worship, or as a public or parochial school, or educational or charitable institution, or seminary, unless the consent of the owner or corporation or person controlling the premises is first secured.

Section 16. The said act is hereby amended by adding thereto three new sections, known as sections 1102 to 1104 inclusive as follows:

Section 1102. Hearing; Report; Exceptions There-to; View and Notice.—(a) The supervisors shall give ten days' notice to the property owners affected thereby of the time and place when and where all parties interested may meet and be heard. Witnesses may be summoned and examined by the supervisors and by the parties interested at such meeting or any adjournment thereof.

(b) After such hearing and a consideration of the matter, should the supervisors, or a majority thereof, decide in favor of exercising the power, so conferred, they shall make written report, together with a draft or survey of the road, fixing the width thereof, and noting the improvements along the line thereof, and the names of the owners of property through which the same shall pass, or whereon it shall abut. Such report and draft shall be filed in the office of the clerk of the court of quarter sessions.

(c) Any citizen or freeholder of the township may, within thirty days after the filing of the report of the supervisors, upon entering in the court sufficient surety to indemnify them for all costs incurred in the proceed-

Act of May 1,
1933 P. L. 103,
amended by adding
new sections
1102 to 1104 in-
clusive.

* "abutting," in original.

ings, file exceptions to the report together with a petition for a review.

(d) Upon favorable action on such matter by the supervisors, and after the expiration of the term allowed for filing exceptions, or upon the order of the court upon the disposition of any exceptions, if in either case the compensation for the damages or benefits accruing therefrom have not been agreed upon, the court of common pleas, or any law judge thereof in vacation, on application by petition by the supervisors, or any person interested, shall appoint three viewers from the county board of viewers to assess the damages and benefits occasioned by the proceeding, in the manner provided by this act for such proceedings.

(e) After the passage or approval of any ordinance by the supervisors for the opening, widening, straightening, extending or vacating any road, notice shall, within ten days thereafter, be given by handbills, posted in conspicuous places along the line of the proposed improvement. Such notice shall state the fact of the passage or approval of the ordinance and the date of the passage or approval.

Section 1103. *Width of Public Roads.*—The width of a public road in townships of the second class shall not be less than thirty-three feet or more than one hundred and twenty feet, unless in any particular case, the supervisors shall determine that a road of lesser width will be sufficient for public use and travel: Provided, That the limits of width shall not be construed to include the width required for necessary slopes in cuts or fills, when the limits of the road and the extra width required for such slopes exceed the limits of width herein specified.

Section 1104. *Laying Out Roads Under the General Road Law.*—All roads, partly within townships of the second class, where one of the termini of such roads is without the township, shall be laid out, widened, changed or vacated only by the courts of quarter sessions, as heretofore in the manner provided by the general road law and the amendments, additions, and supplements thereto. But no such road shall be opened, changed, widened, altered or vacated, unless and until the supervisors of the township shall have passed a resolution consenting and approving thereto, and shall have filed with the clerk of said court, a copy of such resolution duly certified by the township secretary. All damages and benefits occasioned by such laying out, and the subsequent opening thereof, or by any such widening, changing or vacation shall be assessed, collected and paid in the manner provided by the general

road law and the amendments, additions and supplements thereto: Provided, That all damages occasioned by such laying out, and the opening thereof, or by the widening, changing or vacating of all roads within townships of the second class shall be assessed, collected and paid by such townships of the second class.

Section 17. Sections 1105 to 1175 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

Sections 1105 to 1175, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

(b) Certain Roads Declared to Be Public Roads

Section 1105. *Certain Roads Declared Public Roads.*—Every road not of record which has been used for public travel and maintained and kept in repair by the expenditure of township funds for a period of at least twenty-one years and upwards shall be deemed to be a public road of the width of [at least] thirty-three feet notwithstanding the fact that there is no public record of the laying out of such road or a dedication thereof for public use. In all such cases the lawful laying out and opening or dedication of such roads of the width hereinbefore specified shall be conclusively presumed.

(c) Opening and Repairing Roads, Detours,
Et Cetera

Section 1110. Opening, Repairing and Closing Roads.—Public roads [or highways] in townships shall, as soon as may be practicable, be effectually opened and constantly kept in repair. All public roads [or highways] shall at all seasons be kept reasonably clear of all impediments to easy and convenient traveling at the expense of the township.

The supervisors of any township may temporarily close any township road when, in their opinion, excessive or unusual conditions have rendered such road unfit or unsafe for travel and immediate repair, because of the time of year or other conditions, is impracticable. The road or portion of road so closed shall be properly marked at its extremities and a means of passage for the customary users of such road shall, whenever possible, be provided.

Anyone using such road or portion thereof after the same has been properly closed and marked, without a permit from the supervisors, shall [be subject to a penalty of not more than one hundred dollars, to be recovered] *upon conviction thereof in a summary proceeding, [and penalties] pay a fine of not more than one hundred dollars, and in default of the payment of such fine and costs, shall be sentenced to imprisonment of not more than ten days. All fines so recovered shall be payable to [the treasurer of the township wherein the offense was committed, to be expended in the repair of the roads of] the general township fund.*

Section 1111. Time Within Which Roads to Be Opened.—Whenever proceedings have been heretofore or may hereafter be begun [in any court of quarter sessions] for the opening and laying out of any public road in any township, such public road shall be physically opened upon the ground for use by the public within the period of five years next after the [entry of the final decree confirming said road and not thereafter.

In the event that the proceeding for the opening and laying out of a public road referred to in this section shall have been completed, and a final decree confirming said road shall have been made, and such proposed road shall not have been physically opened upon the ground and shall have remained unopened to public use for a continuous period of five years next after the entry of the final decree confirming said road,] *completion of such proceeding, and if not so opened, or if no proceedings have been commenced to compel such opening in five years*, then such proceedings shall be deemed to be void and of no effect, and the land proposed to be taken shall revert to the owners of the land, as in the case of the vacation of a public road free of any easement or right of the public to use the same.

Section 1112. Detours.—Except in the case of emergencies wherein the safety of the public would be endangered, no public road [or highway in] of any township shall be closed to vehicular traffic, except upon order of the [authorities] *supervisors* having charge of the maintenance of such [highways] *public road*, nor for a longer period than is necessary for the purpose for which such order is issued: Provided, however, That no public road [or highway] shall be closer to vehicular traffic when the same has been designated as a detour by the State Department of Highways, unless the written consent of the State Department of Highways has first been obtained, or unless the [authorities] *supervisors* having jurisdiction over said road [or highway] shall, by resolution duly recorded on their minutes, declare such closing necessary for the protection of the public safety.

When any public road [or highway] shall be closed, as hereinbefore provided, it shall be the duty of the supervisors authorizing the closing [to] immediately to designate or lay out a detour, on which they shall erect or cause to be erected and maintained while such detour is in use legible *direction* 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, it shall be the duty

* "directions," in original.

of the [authorities] *supervisors* closing the [main highway] *road* to maintain such detour in safe and passable condition, *except in the case of State and county highways*. It shall also be the duty of the [authorities] *supervisors* closing the [main *highway] *road* and maintaining the detour [to] immediately to remove all detour signs when the [highway] *road* originally closed is open for traffic. [Said] *Except in the case of State and county highways*, said *supervisors* shall, as soon as possible, repair the road designated as a detour, and place same in a condition at least equal to its condition when designated as a detour. Whenever necessary in the creation of a detour, as aforesaid, the [authorities] *supervisors* responsible for laying out the detour may [enter into agreement with the owners of private lands, covering the acquisition of] *acquire by agreement, or right of eminent domain*, right-of-way privileges over private property for the period when the [main highway] *road* shall be closed to traffic. In the exercise of the rights conferred by this section, the [authorities responsible] *supervisors* 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 [/ or] maintenance of the [highways] *roads* in their charge.

Any person who shall wilfully remove, deface, destroy or disregard any barricade, light, danger sign, detour sign, or warning of any other character whatsoever, erected or placed under authority of this section, or who shall drive on, over or across any [highway] *road* which has been *properly* closed, [by proper authority] shall, upon conviction thereof in a summary proceeding before a [magistrate, alderman or] justice of the peace be sentenced to pay a fine of not [less than twenty-five dollars nor] more than one hundred dollars, and the costs of prosecution, and, in default of the payment thereof, shall be imprisoned one day for each dollar of fine and costs unpaid: Provided, however, That persons who have no outlet due to the closing of a [highway] *road* may drive on, over or across such [highway] *road* with the consent in writing of, and subject to such conditions as may be prescribed by, the [authorities responsible for the closing] *supervisors* or their agents or contractors, without being subject to the penalties imposed by this section.

In addition to the penalties [herein provided] *imposed by this section*, the [authorities] *supervisors* responsible for the maintenance of a [highway] *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 [high-

* "highways," in original.

way] *road* by driving on, over or 'across same when it is closed to vehicular traffic in accordance with the provisions of this act.

All fines and moneys collected under the provisions of this section shall be paid by the officer receiving the same to the treasurer of the township in which the offense was committed and credited to the general township fund.

(d) [Changing] *Improving or Vacating* [or Altering] Roads by Agreement with Property Owners

Section 1115. *Improving or Vacating Roads by Agreement.*—Whenever the supervisors of any township deem it advisable to construct, change, *widen, relocate* or alter any part of any public road under their supervision, [within this Commonwealth] or to vacate any abandoned portion of a State highway not vacated by the Department of Highways, and can agree with the property owners affected by such [change, alteration] *improvement* or vacation, they may change, *widen, relocate,* alter or vacate such part of such public road, as contemplated in such agreement, without the formality of a view.*

No such [change or alteration] *improvement* of any part of any public road shall be made, the costs and expenses of which, including damages to such township, shall exceed [five hundred] *one thousand* dollars. A petition setting forth the facts regarding such [change, alteration] *improvement* or vacation accompanied by a map or draft of the same, shall be presented to the court of quarter sessions for approval before such actual [change, alteration] *improvement* or vacation is made; whereupon the new location, approved by the court, shall be taken to be the public road and the old location shall be vacated, or the abandoned State highway shall be vacated, as the case may be.

(e) Elimination of Curves

Section 1120. *Elimination of Curves.*—Any township may acquire, by purchase or by the right of eminent domain, any such property and lands situate along or adjacent to any township [highway] *road*, as, in the opinion of the supervisors of such township, may be necessary to eliminate dangerous curves and widen narrow roads [or highways] for the better protection and safety to the traveling public.

Upon any such purchase or condemnation the supervisors may, from time to time, abate or remove, or cause to be abated or removed, any such dangerous curve or curves, or widen such narrow [highway] *road* to the extent of the property and land so acquired.

The proceedings for the condemnation of such property [and lands] *or land* under the provisions of this

section, and for the assessment of damages for property *or land* taken, injured or destroyed, shall be taken in the manner provided by this act for the condemnation of land by townships.

[This section shall not be construed to repeal any acts or parts of acts providing a method of procedure for the widening of township roads.]

(f) Acquisition of Unobstructed Views at
Curves and Intersections

Section 1125. *Acquisition of Views.*—Any township may acquire, by purchase or by *the right of eminent domain, a free and unobstructed view down and across such lands located at or near the intersection of any two *roads or highways*, or a [highway] *road* and a railroad or railway, or at any curve in any [highway] *road*, as may be necessary to assure a free and unobstructed view in all directions at such crossings *or curves*, and to so prevent the use of such lands for any purpose or in any manner which may interfere with or obstruct the vision of [any person or] persons traveling upon any such highways.

Upon any such condemnation, the township, having had such view condemned may, from time to time, abate or remove, or cause to be abated or removed, any obstruction to such view over and across such lands.

The proceedings for the condemnation of such view over and across such lands [under the provisions of this act,] and for the assessment of damages for property taken, injured or destroyed shall be taken in the manner provided in this act.

Upon the condemnation of *such* a view, [over and across any such lands,] the owner of such lands may make every such use thereof as will not interfere with a free and unobstructed view at such dangerous crossing or curve, and, unless specially provided for in such condemnation proceedings, such condemnation shall not be construed to prevent the owner thereof from using such land for pasture or the growing of grass, oats, wheat, or other crops which will not obstruct the vision more than wheat.

(g) Relocation, Alteration and Vacation of
Roads in or near State Parks

Section 1130. *Agreements to Relocate, Alter and Vacate Roads in or near State Parks.*—Whenever a public road or highway within a park or public grounds, title to which park or public grounds is vested in the State of Pennsylvania, is laid out, located, relocated, altered or vacated in such manner that a public road [or highway] approaching, leading into, or contiguous to such park or public grounds shall become either useless, in-

* "the," omitted in original.

convenient, or burdensome, such public road [or highway] approaching, leading into, or contiguous to such park or public grounds may be altered, relocated, or vacated by the township supervisors charged with the duty of maintaining such [roads or highways] road, in whole or in part, for the purpose of making it convenient and suitable as an approach to the roads and highways within said park or public grounds, upon the consent and agreement of (a) the commissioners or officials charged with the care and management of said park or public grounds; (b) the township supervisors charged with the duty of maintaining said roads [or highways] approaching, leading into, or contiguous to said park or public grounds; and (c) the property owners owning the majority of the frontage of land abutting upon the relocated portion of the road [or highways] approaching, leading into, or contiguous to said park or public grounds.

Section 1131. Agreement to Be Filed in Court; Effect of Filing.—The filing of [the] *such* consent and agreement [of commissioners or officials charged with the care and management of such park or public grounds, the township supervisors, and of the property owners,] in the court of quarter sessions of the county or counties in which the altered, relocated or vacated road [or highway] is situate, shall have the same force and effect as the filing and the approval and absolute confirmation by the court of quarter sessions of a report of viewers appointed in accordance with the general road law, and shall have the same force and effect as though said viewers had laid out, located, relocated, altered or vacated such road [or highway] in accordance with the agreement filed as aforesaid, and the report of said viewers had been filed, approved and absolutely confirmed by the court.

The filing of said agreement in the court of quarter sessions shall be conclusive as to the question of the necessity *for the laying out, location, relocation, alteration or vacation of said [roads or highways] road as contained in the said agreement, and that the portion or portions of said road [or highway] abandoned or vacated were useless, inconvenient and burdensome.

Section 1132. Altered and Relocated Roads Declared Township Roads.—Such road, [or highway] when altered or relocated, shall be maintained and repaired in the same manner as other township roads are maintained and repaired.

Section 1133. Assessment of Damages.—The owner of any land, through which any public road [or highway] may be so located, may apply by petition to the court of quarter sessions of the proper county, setting

* "of," in original.

forth the injury which [he or she may have] *has been* sustained by reason of the relocation of the said public road, [or highway] and the proceedings relative to the assessment and payment of damages of said landowner shall be in accordance with the provisions of this act for eminent domain proceedings.

(h) Grading or Paving [or Macadamizing]
Streets or [Highways] *Roads* Upon Petition
of Property Owners

Section 1135. Petition of Property Owners.—Any township may grade, *curb, gutter, pave* or [macadamize] *otherwise improve*, with brick, stone or [other] *any* suitable materials, any public street or [highway] *road*, or part thereof (not less than one thousand feet), laid out and opened in the township. No street or [highway] *road*, or any part thereof, shall be [graded, paved, or macadamized] *improved* under the provisions of this section, except upon the petitions of owners of property representing a majority in number of feet front of the properties abutting on the street or [highway] *road*, or part thereof, proposed to be [paved] *improved*, nor unless there shall be at least ten separate improved dwellings or places of business in each one thousand feet of [highway] *road* to be so improved.

Section 1136. Assessment of Cost by Foot Front Rule.—The cost and expense of any such improvement may be collected from the owners of the real estate abutting on such street or highway, or part thereof, by an equal assessment on the feet front. Such assessment shall be estimated by the [person in charge of the work of] *township engineer, or if there be no engineer*, by other competent authority designated by the township supervisors.

Section 1137. Collection of Assessments.—All such assessments for [grading, paving or macadamizing] *improvement* shall be filed with the secretary of the board of supervisors. The secretary shall give thirty days' written or printed notice that the assessments are due and payable to each party assessed, either by service on the owner or agent or left on the assessed premises. If the assessments, or any of them, remain unpaid at the expiration of said thirty days, they shall be placed in the hands of the township solicitor for collection. The solicitor shall collect the same, together with five per centum additional as attorney's commission and interest from the completion of the improvement, by a municipal claim filed against the delinquent owner in like manner as municipal claims are now collected. When an owner has two or more lots against which there is an assessment for the same improvements, all such lots shall be embraced in one claim.

Section 1138. Owner Defined.—The term “owner,” as used in subdivision (h) of this act, means all individuals, corporations, public or private, copartnerships, and associations, having [any] title [or interest] in the property assessed. If the owner to whom notice is required to be given is a non-resident of the township, and his, her, or their place of residence is unknown, or if the ownership of the property cannot be ascertained, the notice shall be posted on the premises and a copy left with the occupant, if there be one.

(i) Deeds of Dedication; Dedicated Roads, Streets and Drainage Facilities

Section 1140. Acceptance of Land Dedicated by Deed for [Highway] Road Purposes; Plans of Dedicated Roads and Streets.—The supervisors of any township may accept in the name of the township, any land dedicated by deed to the township to be used, in any manner, for [highway] road purposes. No person shall construct, open, or dedicate any road, [street, *lane or alley,] or any drainage facilities in connection therewith, for public use or travel in any township, without first submitting plans thereof to the township supervisors for their approval. Such plans shall be prepared in duplicate in accordance with such rules and regulations as may be prescribed by the supervisors, and shall show the profiles of such roads, [streets, lanes or alleys,] the course, structure, and capacity of any drainage facilities, and the method of drainage of the adjacent or contiguous territory, and also any other further details that may be required under the rules or regulations adopted by the township supervisors. Before acting upon any such plans, the supervisors may, in their discretion, arrange for a public hearing, after giving such notice as they may deem desirable in each case. The township supervisors are authorized to alter such plans, and to specify any changes or modifications of any kind, which they, in their discretion, may deem necessary with respect thereto, and may make their approval of such plans subject to any such alterations, changes or modifications. Any plans when so approved shall be signed in duplicate on behalf of the township by [such officer as] the supervisors [may designate] and an approved duplicate copy shall be filed [in the township office, where the same shall be] *with the secretary of the township, who shall make the same* available to public inspection. No road, [street, lane or alley] or [any] drainage facilities in connection therewith, shall be opened, constructed, or dedicated for public use or travel, except in strict accordance with plans so approved by the supervisors, or with further plans subse-

* “land,” in original.

quently approved by them in the same manner, and [/or] until such plan and the approval thereof has been recorded as hereinafter provided.

Section 1141. Appeals Where Supervisors Refuse Approval; *Recording of Approval and Plans.*—(a) In any case where the township supervisors shall refuse to approve any plans submitted to them in accordance with this subdivision, any person aggrieved by the action of the supervisors may, within thirty days after such action, appeal therefrom by petition to the court of quarter sessions of the county, which court shall hear the matter de novo, and, after hearing, may enter a decree affirming, reversing, or modifying the action of the supervisors as may appear just in the premises. The court shall designate the manner in which notices of the hearing of any such appeal shall be given to all parties interested. The decision of the court shall be final.

(b) The action of the township supervisors, or of the court on appeal, in approving any such plans, and an approved duplicate copy of such plans, shall be recorded by the person applying for such approval in the office of the recorder of deeds of the county.

Section 1142. No Responsibility on Township Where Plans Not Approved.—If any road [street, lane or alley] or any drainage facilities in connection therewith, shall be opened, constructed, or dedicated for public use or travel, except in strict accordance with plans approved *and recorded* as herein provided, neither the township supervisors nor any public authorities shall place, construct, or operate any sewer, drain, water pipe or other facilities, or do any work of any kind, in or upon such road [street, lane or alley]; and neither the township supervisors nor any other public authorities, shall have any responsibility of any kind with respect to any such road [street, lane, alley] or drainage facilities, notwithstanding any use of the same by the public: Provided, however, That nothing herein contained shall prevent the laying of trunk sewers, drains, water or gas mains, if required by engineering necessity for the accommodation of other territory.

Section 1143. Entry on Lands by Supervisors.—The township supervisors and their representatives and workmen may enter upon any land and property, and maintain marks and monuments, so far as the supervisors deem necessary in carrying out their powers and duties [hereunder] *under this subdivision.*

Section 1144. Penalty.—Any person, copartnership or corporation who or which shall construct, open or dedicate any road [street, lane, or alley] or any drainage facilities in connection therewith, for public use

or travel in any township, without having first complied with the provisions of [this subsection] *section 1140* of this act, and of any resolutions of the township authorities adopted pursuant hereto, shall be guilty of a misdemeanor, and, upon conviction thereof, such person or the members of such copartnership or the officers of such corporation, responsible for such violation, shall be sentenced to suffer imprisonment not exceeding two years, or pay a fine not exceeding one thousand dollars, or both, in the discretion of the court.

Section 1145. Effect of Approval of Plans.—No approval of plans by a township shall obligate or require any such township to construct, reconstruct, maintain, repair, or grade such roads, until and unless authorized and ordered so to do by the proper court pursuant to the provisions of [existing law in that regard] *this subdivision*.

Section 1146. Powers of State and Counties Preserved.—Nothing contained in this subdivision shall be held to restrict or limit the State Department of Highways, or any county, in the exercise of any of its duties, powers and functions under the provisions of any act of Assembly now in force or hereafter to be enacted.

Section 1147. Taking Over of Roads, Streets, Lanes, and Alleys Heretofore Dedicated as Public [Highways] Roads.—Whenever plans of dedicated roads, streets, lanes, or alleys located in second class townships have been adopted, approved, and recorded, the board of supervisors of any such township may with the consent of the court of quarter sessions, upon petition filed, accept any roads, streets, lanes, or alleys, as public [highways] *roads*, if shown in said plans as dedicated to such use; and provided the roads or streets shall be not less than thirty-three feet in width, and the lanes or alleys not less than fifteen feet in width, said acceptance to be evidenced by a resolution of the said board of supervisors, properly describing said roads, streets, lanes, or alleys and adopted by a majority thereof by a vote duly recorded and entered upon the minutes of said board. Upon the filing with the clerk of courts of quarter sessions of the county, in which said township shall be situate, a certified and attested copy of said resolution with the consent of the court endorsed thereon, such roads, streets, lanes, or alleys shall be and become a part of the public [highway] *road* system of said township, and shall be so recorded in said court of quarter sessions. [Provided, That in the case of any *plan of dedicated roads, streets, lanes or alleys which was adopted, approved and recorded prior to the effective date of this act, said roads, streets, lanes or alleys, if dedicated to public use, may be taken over as

* "plans," in original.

public highways under the authority of and in accordance with the procedure prescribed by this section, if said roads or streets are less than thirty-three feet in width, and said lanes or alleys are less than fifteen feet in width.]

(j) Entry on Private Property to Secure Road Material and to Open Ditches and Drains

Section 1150. Power to Enter on Lands.—When road material cannot be conveniently obtained by contract at reasonable prices, the supervisors of [townships] *a township* may enter upon any land or enclosure within their township lying near the road, and dig, gather, and carry upon the road any stones, sand, gravel or other road material which they think necessary to make, maintain, or repair the road. 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 1151. Viewers to Fix Damages.—Whenever the supervisors and the owners of [any such materials] *the land* cannot agree upon the [price to be paid therefor, the value of such materials] *damages, the same* shall be assessed by viewers to be appointed and to make report as provided in this act in the case of eminent domain proceedings.

Section 1152. Power to Open Drains and Ditches.—The township supervisors may enter upon any lands or enclosures, and cut, open, maintain, and repair such drains or ditches through the same as, in their judgment, are necessary to carry the water from the roads. [streets, lanes or alleys.]

[If any] *Any person who* shall stop, fill up, or injure any such drain or ditch, or shall divert or change the course thereof, without the authority of the supervisors, [such person] shall, [for every such offense] *upon conviction thereof in a summary proceeding*, pay a [penalty] *fine* of not more than twenty-five dollars *for each such offense*, together with the cost of restoring such drain or ditch, [to be recovered in a summary proceeding. The penalty] *and, in default of the payment of such fine and costs, shall be sentenced to imprisonment of not more than ten days. All fines and moneys so recovered shall be paid to the township treasurer.*

(k) [Highways] *Roads* Crossing Railroads;
Special Uses of [Highways] *Roads*

Section 1155. Railroad Crossings.—Every township constructing a [highway] *road* across a railroad shall *construct the same above or below the grade thereof, unless permitted by the Public [Service] *Utility Commission* to construct the same at grade.

* "construct," in original.

Any such crossing of a railroad by a [highway] *road*, or any vacation of any [highway] *road* crossing a railroad, shall be constructed only in the manner prescribed by and under the jurisdiction of the Public [Service] *Utility* Commission. [The] *In such cases* compensation for damages to the owners of adjacent property taken, injured or destroyed, shall be ascertained, fixed and paid in the manner prescribed in the Public [Service] *Utility* Law.

Section 1156. [Highway] Permits.—No railroad or street railway shall hereafter be constructed upon any township [highway] *road*, nor shall any railroad or street railway crossings, nor any gas pipe, water pipe, electric conduits, or other piping, be laid upon or in, nor shall any telephone, telegraph, or electric light or power poles, or any coal tipples or any other obstructions be erected upon or in, any portion of a township [highway] *road* except under such conditions, restrictions and regulations, and subject to the payment of such fees for permits as may be prescribed and required by the State Highway Department, not exceeding the reasonable cost of issuing the permit and expense of inspecting the work authorized by such permit upon completion thereof. All fees so collected for permits shall be paid into the State Treasury, and shall be credited to [the special fund in the State Treasury into which motor vehicle registration and license fees are now paid; and all such permit fees in said fund, from time to time, are hereby specifically appropriated to the State Highway Department for expenditure for the same purpose and in like manner as that for which the moneys now in said fund may be expended] *the Motor License Fund*.

(1) Guideposts and Index Boards

Section 1160. Duty of Supervisors to Erect.—The supervisors of [townships] *the township* shall erect posts at the intersection of all public roads and at one of the angles where any public road crosses another public road, and shall firmly fix thereon boards or metal signs, with index hands pointing to the direction of such roads, [providing that] *but* if a building, tree, trolley pole, telephone pole, or telegraph pole is so erected that it can be used in place of a post, and permission has been secured from the owner thereof, such building, tree or pole may be used in place of a post. On such boards and signs shall be inscribed, in large and legible characters, the name of the town, village, or place to which such roads lead, and the distance thereto computed in miles. [Provided] Where any *such* public [highway] *road* intersects or crosses a State highway, application for a permit shall be made by the supervisors to the [State] Department of Highways for the erecting of such signs.

Section 1161. Penalty for Destroying, Et Cetera.—It shall be unlawful for any person to wilfully destroy, remove, injure, or deface any guidepost or sign or index board erected upon or near any public street, road, or bridge by the [authorities having jurisdiction over such street, road, or bridge] *supervisors, or by any club, association, or other organized body for the direction, guidance, or safety of travelers.* Any person violating this section shall, upon conviction in a summary proceeding, be sentenced to pay a fine of [not less than ten dollars and] not more than twenty-five dollars, with [all] costs of prosecution, together with the value of such sign so destroyed, removed * or defaced, *and in default of such payment, shall be sentenced to imprisonment of not more than ten days.* All fines and moneys so imposed and collected shall be paid to the township treasurer. [In default of payment of said fine, costs and expenses he shall undergo an imprisonment in the county jail for not less than five nor more than sixty days.]

(m) Protection of [Highways] *Roads* from Snowdrifts

Section 1165. *Protection of Highways from Snowdrifts.*—Any township which is responsible for the maintenance of any public road [or highway] shall have authority to enter upon private property adjacent to such public road or highway and place thereon a snow fence, at any point [as] *which* may be deemed necessary, to within a limit of one hundred [(100)] feet from the right-of-way line of such public road, [or highway] in order to eliminate snow drifting on the traveled portion of the public road [or highway].

No such snow fence 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 is obtained, agreeing to an extension of time for the removal of said snow fence.

If the supervisors 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 common pleas of the county for the appointment of viewers to ascertain the amount of damage incurred in such case in the manner provided in this act for eminent domain proceedings. Such damages, if any, when ascertained, shall be paid by the township [. Any funds available to the respective authorities for the construction and maintenance of public roads or highways under their supervision shall be available for the payment of such damages.] *from the general township fund.*

* "[and]," in original.

** "or," in original.

Whenever any [highways] *roads* in townships are so located as to render them liable, on account of high wind during the winter season, to be so filled with snow as to make them impassable, and, in the judgment of the supervisors, such drifts of snow can be avoided by the removal of any fence erected along either side of such [highway] *road* and replacing the same by a fence constructed of posts, wire, and boards *or rail combined, [such] *the* supervisors may agree with the owners of such fences upon a plan for the erection of *such* a fence. [constructed of posts, wire, and board or rail combined.] The township may pay the owners of such fences a sum not to exceed the first cost of the wire used in the construction of such fences. The wire used in the construction of such fences shall be without barbs. This section shall not apply to any stone wall, hedge, or ornamental fence.

(n) Grades of Highways

Section 1170. *Grades of Highways.*—In the construction or repair of any highway in any township, it shall be unlawful to raise such highway above the ordinary grade thereof when a drain or culvert shall be constructed under such highway, or when such highway shall be constructed or repaired over such drain or culvert. This section shall not be construed in any manner to interfere with the work of the State Department of Highways, in the reconstruction or improvement of any State highway or State-aid highway, or when a township improves a township road, under the direction, plans, and specifications of the State Department of Highways.

(o) Trees and Shrubbery within Limits of
[Highway] *Road*

Section 1175. *Saving Trees and Shrubbery.*—Where any [highway in] *road* of any township passes through or along forested lands, wild lands, or uncultivated lands, no trees growing within the limits of such [highway] *road* at a distance beyond fifteen feet on either side of the center line thereof, and which measure four inches or over in diameter at a point two feet from the surface of the ground, shall be cut down or destroyed by the supervisors or roadmasters employed by them, or any other **person, without first obtaining the consent of the abutting owners.

Whenever any [highway] *road* running through improved or cultivated lands has been opened, and there are growing, along the roadsides and within the road limits, shrubs or trees not *in the opinion of the supervisors* interfering with public travel, no supervisors or roadmasters, or other persons in their employ, shall remove, cut, injure, or destroy, or ***in any other manner

* "of," in original.

** "persons," in original.

*** "other any," in original.

interfere with such shrubs or trees. If such removal or cutting is [absolutely] *deemed* necessary for the purpose of maintaining the [highway at its highest efficiency] *road*, the supervisors or roadmasters, or other persons in their employ, may [so] cut or remove such shrubs or trees, after notifying the abutting property owners [and entering into an agreement with them relating to the] *of the contemplated* removal, cutting [or interference with] *of* said shrubs or trees.

Section 18. Section 1176 of the said act is hereby repealed.

Section 19. Sections 1177 to 1201 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

Section 1177. Logs and Cordwood Property of Owner.—All logs, cordwood, branch wood, or other forms of wood, which shall be derived from the destruction or removal of any trees growing along the highways, shall be surrendered to and remain the property of the abutting owners.

Section 1178. Brush and Refuse.—The supervisors may clear out brush and other refuse from along the sides of the road to the legal width thereof. All such clearing and removal of brush and refuse shall be confined to growth that is within the limits hereinabove described, and to the removal of branches that in any way interfere with public travel. No other injury, by fire, cutting, abrasion, or otherwise, shall be done to the standing timber.

Section 1179. Penalty.—*[If any] *Any* supervisors, roadmaster, or person in their employ, or any other person, *who* shall cut down, kill, or injure any living tree, growing at a distance beyond fifteen feet on either side of the center line thereof, and of a size four inches in diameter or greater at a point two feet from the surface of the ground, *except as provided in this subdivision*, or *who* shall violate any other provision [of the preceding sections] of this subdivision, [he] shall, *upon conviction thereof* in a summary proceeding, be [subject to a penalty] *sentenced to pay a fine*, of not more than five dollars for every tree so cut, injured, or destroyed, with costs of suit, *and in default of the payment of such fine and costs shall be sentenced to imprisonment of not more than ten days*. Such fines shall be paid [to the township treasurer.] *into the General Township Fund*. [If any defendant, upon conviction for any offense, fails or refuses to pay the fine and costs imposed, or does not give bond with approved surety to pay the same within ten days, he shall be committed to the county jail for not more than thirty days or until he has paid the fine and costs in full.]

Section 1176, act of May 1, 1933 P. L. 103, repealed.

Sections 1177 to 1201, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

*"[If any]." omitted in original.

Section 1180. Removal of Obstruction.—Nothing in this subdivision [of this act] shall be so construed as to prevent the supervisors or roadmasters, or other persons in their employ, from removing such roadside trees which may be thrown down by [the] wind or lodged in such position as to be a menace to public travel, or which, by reason of any other cause, may become a source of danger to the public. Every such act of removal shall be made with due regard to the circumstances of the case, so as to preserve the true intent and purpose of this subdivision.

(p) Obstructions and Nuisances

Section 1185. *Obstructions and Nuisances.*—[If any] *Any person who* shall stop or obstruct any public road [or highway] in any township, or [shall] commit any nuisance *thereon by felling trees, making fences, turning the road, or in any other way, and *who* shall, not on notice given by the township supervisors, forthwith remove the obstruction or nuisance and repair the damages done to such road, [such person,] upon conviction in a summary proceeding, shall, for every such offense, pay a penalty of not more than twenty-five dollars, *and in default of the payment of such fine and costs, shall be sentenced to imprisonment of not more than ten days.* Nothing in this section shall debar an indictment for any such nuisance as in case of misdemeanor at common law.

(q) Opening, Making, [Amending] and Repairing Highways and Bridges by Contracts with Taxpayers

Section 1190. Taxpayers' Rights.—Any one or more taxpayers of any township may acquire the right to furnish all the materials and labor necessary for opening, making, [amending] and repairing the public highways and bridges of such township, in manner and under the conditions set forth in this subdivision of this act.

Section 1191. Petition to Court.—To acquire such right, such [taxpayers] *taxpayer* shall, before the beginning of the township fiscal year, present to the court of quarter sessions a petition, setting forth that he, [she, or it or they are] is the owner of property assessed and taxed for road purposes in such township, the approximate number of miles of public road in such township, and the ability of the petitioner [or petitioners] to lay out, open, make, [amend,] and repair the public highways and bridges of such township, wholly at his, [her, its or their] own expense, for the ensuing township fiscal year, and to pay the other expenses of such

* "thereof," in original.

township, as hereinafter provided, without any right against or claim upon such township for or by reason of the materials, labor or money so furnished.

Section 1192. Bond of Petitioners.—The [petitioners] *petitioner* shall, with the petition, present a bond to the township, *in the sum of ten thousand dollars or in a sum equal to five hundred dollars for each mile of public road in the township, whichever shall be greater*, with one or more sufficient sureties, to be approved by the court, conditioned for the faithful performance of said petitioner [or petitioners] of his [her, its or their] duty, and to save the township harmless from any loss or claim by reason of failure so to perform said duty.

Section 1193. Notice to Supervisors and Auditors.—Notice of the intention of presenting the petition and bond, and of the time when said petition and bond will be presented to the court, shall be given to the supervisors and auditors of the township, at least ten days before the same are presented.

Section 1194. Contracts; Stipulations.—When the petition, bond, and proof of the notice, required in the preceding section, are presented to the court, the same shall be ordered filed; and the court, being satisfied of the good faith of the [petitioners] *petitioner* and the sufficiency of the petition, bond, and notice, shall order and direct the supervisors, on behalf of the township, to enter into a contract with the petitioner. [or petitioners.] In such contract, the petitioner [or petitioners] shall bind [him, her, or itself or themselves] *himself*.

1. To open, make, [amend] and repair the public highways and bridges of the township for the ensuing fiscal year in a lawful and workmanlike manner, wholly at the expense of the petitioner [or petitioners] and without creating thereby any claim upon or right against the township for or by reason of the materials, labor or money for persons employed.

2. To indemnify and save harmless the township from all claim, damage, cost, or expense of whatever kind, for or by reason of any act or omission of said petitioner [or petitioners] whereby any claim, suit, or other demand may be set up or recovered against the township.

3. To pay, within sixty days from the beginning of the fiscal year, to the following officers of such township, the following sums, to be received by said officers in full for all demands against such township for their respective services as such officers of the township for the fiscal years for which the said contract is made, which shall be in lieu of the compensation otherwise in

this act provided for such officers, namely: To each township secretary, the sum of fifty dollars; to each of the auditors of such township, the sum of twenty-five dollars; to an attorney, to be elected by such supervisors as counsel for the township, the sum of fifty dollars; to each supervisor, the sum of two hundred and fifty dollars.

Section 1195. No Road Tax to Be Levied.—In consideration of the obligations set out in the preceding section to be assumed and performed by the petitioner [or petitioners] the supervisors, on behalf of such township, shall stipulate that the township will not assess, levy, or collect any tax for road purposes during the fiscal year for which such contract is made.

Section 1196. Inspections by Supervisors.—The supervisors shall view and inspect the making and repairing of the roads in such townships, at least once during every month, and satisfy themselves that the [petitioners] *petitioner* [have] *has* fully complied with their contract, before final settlement and expiration of contract. If, at any time, the supervisors shall see that any *portions of the roads need repair, they shall notify the [petitioners] *petitioner* to repair the same. In case said [petitioners fail] *petitioner fails* to repair said road within five days after notice, the supervisors are empowered to purchase such materials and employ such men as may be necessary to repair such road, and charge the same to the [petitioners.] *petitioner*.

ARTICLE XII

BOUNDARY ROADS [AND HIGHWAYS]

(a) Opening, Repairing, and Improving *Roads* on Division Line of Townships

Section 1201. Roads Between [Two] Townships of the *First Class and Townships of the Second Class*.—Roads [or highways] laid out on a line which divides [two townships] *a township of the first class from a township of the second class* shall be opened, made, kept clear and in repair, at the joint and equal charge of such townships. Any township necessarily incurring more than its due proportion of such charge may recover the excess so incurred from the other township.

When any public road is laid *out* on the line of two townships, if the commissioners or supervisors of an adjoining township neglect or refuse to join with the supervisors of the township in opening or repairing such road, the supervisors of the township shall open, [amend,] and repair the road, and are authorized to

* "portion," in original.

collect a just proportion of the cost of the opening and repairing of such road from the township so neglecting or refusing to join in such opening, [amending] or repairing. The commissioners or supervisors so neglecting or refusing shall be liable to a penalty of [not less than four dollars and] not exceeding fifty *dollars, to be recovered in a summary proceeding. All such penalties when recovered shall be paid into the township road fund.

Section 20. The said act is hereby amended by adding thereto a new section, known as section 1202 as follows:

Act of May 1,
1933 P. L. 103,
amended by adding
new section
1202.

Section 1202. Roads Between Two Townships of the Second Class.—Whenever any road is on the boundary line between two townships of the second class, such road shall be constructed, improved, repaired and maintained jointly by said townships. For the purpose of constructing, improving, repairing or maintaining any such road, the supervisors of such townships are hereby directed to enter into an agreement providing the manner in which the same shall be constructed, improved, repaired or maintained, and providing for the division of the cost of maintenance between said townships. Such agreement shall be filed with the clerk or clerks of the court or courts of quarter sessions of the county or counties in which such townships are located. If any such township shall fail or refuse to enter into any such agreement, or if the townships cannot agree, any taxpayer or the supervisors of either township may present a petition to the court of quarter sessions of the county, or if said townships are in different counties to the court of quarter sessions of either county, setting forth the facts, and the court, after hearing of which such notice shall be given to all parties interested as the court may direct, shall make an order directing the manner of such construction, improvement, repair or maintenance and the division of the cost thereof between such townships. The action of the court shall be final.

Section 21. Sections 1205 to 1225 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

Sections 1205 to
1225, act of May
1, 1933 P. L.
103, reenacted,
revised and
amended.

(b) Maintenance of Roads Between Townships and Cities or Boroughs

Section 1205. Roads Between Townships and Cities and Boroughs.—Whenever any road or street is on the boundary line between any township and a city or borough, such road or street shall be maintained jointly by the township and the city or borough. For the pur-

* "dollars," omitted in original.

pose of maintaining any such road or street, the authorities of any such township are hereby directed to enter into agreements with such city or borough providing the manner in which the same shall be maintained, and providing for the division of the cost of maintenance between the city or borough and township. If any such city or borough and township shall fail or refuse to enter into any such contract, or if the city or borough and township cannot agree, any taxpayer or the corporate authorities of the township may present a petition to the court of quarter sessions of the county, setting forth the facts, and the court, after hearing, of which such notice shall be given to all parties interested as the court may direct, shall make an order directing the manner of such maintenance and the division of the cost of maintenance between the city or borough and the township. The action of the court shall be final.

(c) [Highway,] *Road*, the Centre Line of Which is the
Dividing Line Between Townships and Boroughs
or Cities in the Same County

Section 1210. *Roads Between Townships and Municipalities in the Same County.*—Whenever the centre line of any [highway] *road or street* constitutes the dividing line between a township and any city or borough located in the same county, the supervisors of the township may, jointly with the county, enter into a contract with the city or borough providing for the grading, curbing, and macadamizing or paving of such [highway] *road*.

Such 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 the laws governing the construction of such alterations or improvements in such city or borough and with plans and specifications to be agreed upon in writing between the supervisors of the township and the city or borough and the commissioners of the county.

The cost of any alteration or improvement shall be borne one-half by the city or borough and one-half by the county and township in equal portions.

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 portions as are agreed upon in the joint contract of the township with the county.

(d) [Highway] *Road*, the Centre Line of Which Is
the Dividing Line Between Townships and Cities
in Adjacent Counties

Section 1215. *Roads Between Townships and Cities in Adjacent Counties*.—Whenever the centre line of any [highway] *road* constitutes a dividing line between a township and a city located in an adjacent county, it shall be lawful for the township supervisors to enter into a contract with the county in which it is located and the city providing for the grading, curbing, macadamizing or paving of the roadway of said [highway,] *road*, the cost thereof to be borne one-half by the city and one-half by the township and the county in which such township shall be situated in equal portions.

The said *alteration or improvement shall be constructed, and subsequent repair shall be made, under the supervision of the proper authorities of the said city, in compliance with existing laws governing such construction or improvement in such city, and in further compliance with plans and specifications to be agreed upon in writing between such city and the commissioners of the county and the township supervisors of the said township. The cost **of repairs shall be borne one-half by the city and one-half by the township or by the county and township in equal portions, or such other proportions as may be agreed upon by the county and township.

In all cases in which it shall be found impossible to enter into such contract or agreement as is provided for in this section, or where either the city or the township or the county in which such township is situated shall refuse to enter into such contract or agreement, it shall be lawful for the township to present its petition to the court of common pleas of either county, setting forth the facts and circumstances, including the condition of the [highway] *road* from which the necessity or desirability for the grading, curbing, macadamizing or paving of the roadway appears, and the estimated cost thereof and that the terms of the said contract as provided for in this section cannot be agreed upon by the said city and the county or township, or either or any of them, or that either such city or the county or township, or any or either of them, refuses to enter into such contract. Such petition may pray that such court may, after hearing all the parties concerned, make its order or decree, defining the nature and character of the improvement reasonably necessary or desirable to be made to the roadway, and requiring the parties hereinabove specified to enter into a contract or contracts for the

* "alterations," in original.

** "or," in original.

making and constructing of the same as herein provided for. A copy of the said petition, duly certified, shall be served upon the city or the county and township concerned, other than the petitioner, with notice of such day as may be fixed by the court for a hearing. Thereupon either or both of the parties served with such notice shall be entitled, on or before such date, to file in the said court its answer to the said petition, setting forth its version of the facts or such other matters in relation thereto as may be deemed necessary or proper by it. The said court upon the date so fixed, or at such other times 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 said 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 city and one-half by the county and township in equal portions. The said order or decree may further provide that the repairs to such alterations and improvements subsequently required shall be borne one-half by the city and one-half by the county or township in equal portions, or such other proportions as between the county and the township as such court may find to be legal and proper; and thereupon the said grading, curbing, macadamizing or paving of the roadway of such [highway] road shall proceed in accordance with the decree or order of the said court in the same manner as if the contract or agreement in this section had been entered into and duly executed.

- (e) Improvement of *Roads or Streets Where More Than One-half of Width Is in Township*;
Assessment of Property Outside Limits

Section 1220. *Roads More Than One-Half in Townships.*—Whenever any road or street, [alley, or highway] more than one-half of the width of which is within the limits of any township shall divide the said township from any other municipality or township located within the same county, such road or street, [alley, or highway] may be improved by the township within which the greater width is located in the same manner as if the said road or street, [alley, or highway] were entirely located within the limits of said township.

* "reasonably," omitted in original.

The property abutting on the side of said *road or street*, [alley, or highway] which is located outside the limits of the township making such improvements shall, for a depth of one hundred and fifty feet plus one-half the width of said *road or street*, [alley, or highway] from its center line, be assessed for any and all municipal improvements to or on the said *road or street*, [alley, or highway] 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 city, borough, or township.

(f) Assessment of Property Outside Limits for Street *Improvement Where Street Entirely Within Township

Section 1225. *Roads Within Township along Division Line.*—Whenever any *road or street* [or alley] entirely within the limits of any township, shall divide such township from any other municipality or township located in the same county, the property on the side of the *road or street*, [or alley,] opposite the line of such township, shall, for a depth of one hundred and fifty feet, be assessed for municipal improvements on such [streets or alleys] *road or street* on which property shall abut. Such assessment shall be made in the same manner and in the same proceeding as is used for the assessment of property within such township for such improvement.

Section 22. Said act is hereby amended by adding to Article XII thereof a new division and section as follows:

Act of May 1,
1933 P. L. 103,
amended by adding
new subdivision
(g) to
Article XII.

(g) *Agreements for Improving Roads or Streets Forming Boundaries Between Townships and Boroughs*

Section 1230. *Agreement for Improving Roads or Streets Forming Boundaries Between Townships and Boroughs.*—Townships may enter into agreements with adjoining boroughs for the grading, paving and curbing or macadamizing of roads or streets which may be boundaries between such townships and boroughs, and may provide in such contract that the damages, costs and expenses of such improvement shall be divided between such townships and boroughs in proportions agreed upon. Such agreements shall be filed with the clerk or clerks of the court or courts of quarter sessions in the county or counties in which such townships and boroughs are located.

In grading, paving and curbing or macadamizing any such roads or streets, townships shall exercise such power, only upon petition of a majority of the property owners in interest and number, abutting the line of the

* "Improvement," in original.

proposed improvement within the township limits, to be verified by the affidavit of one of the petitioners, a majority in interest of owners of undivided interest in any piece of property to be treated as one person, asking that such improvement be made.

The portion of the damages, costs and expenses agreed to be paid by any township shall be ascertained, and the benefits incident thereto, shall be assessed and collected in the manner provided in this act for the assessment of damages and benefits by viewers.

Sections 1301 and 1302, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 23. Sections 1301 and 1302 of the said act are hereby reenacted, revised and amended to read as follows:

ARTICLE XIII

BRIDGES [AND VIADUCTS]

(a) Over [Creeks, Rivulets] *Streams*, Gullies, Canals and Railroads

Section 1301. Power to Make and Maintain Bridges.—The supervisors of townships, in making and repairing the roads, shall make and maintain within their township sufficient bridges over all [small creeks, rivulets, deep] *streams*, gullies, canals, and railroads, where [the same is] *such bridges are* necessary for the *ease and safety of travelers. *Such bridges shall be deemed to be a part of the road.*

[Such bridges over canals or railroads shall not obstruct the railroad or canal over which it is built. Nothing in this section shall release railroad or other companies or the Commonwealth from the requirements of existing laws.]

Section 1302. Damages.—[In] *All damages* in the construction and maintenance of such bridges, [all damages] shall be awarded and benefits assessed as part of the proceeding to lay out, open, make, or repair the road of which the bridge is a part.

Act of May 1, 1933 P. L. 103, amended by adding new section 1303.

Section 24. The said act is hereby amended by adding thereto a new section known as section 1303:

Section 1303. Where Bridge is Over Railroad or Canal.—If a bridge is built over a railroad or canal, such bridge shall not obstruct the same. Nothing in this article shall release any railroad or other companies from the requirements of existing law.

Section 1305, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 25. Section 1305 of the said act is hereby reenacted, revised and amended to read as follows:

*"case," in original.

(b) Over Streams, Railroads and Canals on Township Boundaries

Section 1305. Bridges on Division Line of Townships.—Where a [small creek or] *stream*, a *gully*, a railroad or a canal, over which a bridge is necessary, is on the boundary line of two townships, or of a township and a municipality, the bridge shall be built and maintained [at the joint and equal expense of the townships, by their respective commissioners or supervisors] in the manner directed by this act in the case of public roads which [may be] *are on* the division line [of] *between* townships, or *townships and municipalities*.

Section 26. Sections 1306 and 1307 of said act are hereby repealed.

Section 27. Section 1310 of said act is hereby reenacted, revised and amended to read as follows:

(c) Maintenance, Repair, and Rebuilding of Bridges Built by County

Section 1310. *County Bridges*.—Whenever a bridge or part thereof has been built by the county, or the whole or part of the money necessary to build it has been furnished by the county, and the bridge has not been entered on record as a county bridge, such bridge shall be maintained, kept in repair, and rebuilt, when necessary, by the township or townships in which, or on the boundary line of which, it is located, without rendering the county liable for the same.

Section 28. Subdivision (d) and section 1315 of Article 13 of the said act is hereby repealed.

Section 29. Sections 1401 to 1403 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

ARTICLE XIV

SIDEWALKS AND FOOTPATHS

Section 1401. Power of Supervisors to Establish Width and Location of Sidewalks; Consents in Certain Cases.—The supervisors of any township, upon the request of any landowner whose land fronts upon a public road or highway within such township, may establish the width, grade and location for a sidewalk along one or both sides of said road or highway along the lands of such owner. [The width of the walk on each side of said highway shall not be less than six feet for roads fifty feet in width or less, and for roads over fifty feet in width shall be ten feet in width.] When said sidewalks are so established, such *landowner shall pay for and keep the same in repair.

* "landowners," in original.

Sections 1306 and 1307, act of May 1, 1933 P. L. 103, repealed.

Section 1310, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Subdivision (d) and section 1315, Article XIII, act of May 1, 1933 P. L. 103, repealed.

Sections 1401 to 1403, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

In case the [street or] highway is a State or county highway [or a county road], the written consent of the Department of Highways or the county commissioners, as the case may be, shall first be obtained.

Section 1402. Construction of Sidewalks Upon Petition of Property Owners.—The township supervisors may construct sidewalks or curbs, or both, of [board, plank, or cement, or other] suitable material, along the roads or highways, through towns and villages in such townships, upon the petition of owners of property representing a majority in number of feet front of the properties abutting on the roads or highways where such sidewalks or curbs are to be constructed. Whenever any such petition is filed with the supervisors, the *owner of the property shall be given notice by the supervisors to construct such sidewalk or curb; and in case of the failure of the owner to complete such sidewalk or curb within a period of [thirty] sixty days after the receipt of such notice, the supervisors may construct such sidewalk or curb as herein provided. Whenever any sidewalks or curbs are constructed by the supervisors, the expense of the construction of such sidewalk or curb shall be paid by the abutting property owners in proportion to their frontage. If such owners fail to so pay the expenses of the construction of such sidewalk or curb, the township supervisors may recover the amount by action of assumpsit, or may file municipal liens therefor against the abutting properties, in the manner provided by law for the filing and collection of municipal liens.

Section 1403. Power to Establish Grades and Width of Sidewalks or Footpaths.—Supervisors of townships may regulate, by resolution, the grade and width of sidewalks or footpaths constructed along the roads or highways in such townships, and shall have general supervision over the same and may establish a grade or grades for [footways or] sidewalks or footpaths, which grade or grades may be separate and apart from the grade or grades established for the cartway or roadway.

Section 30. The said act is hereby amended by adding thereto a new section known as section 1404.

Section 1404. Sidewalks or Footpaths by Township.—Whenever it shall appear to the supervisors that any part or portion of any road or highway is dangerous to the traveling public and such danger could be materially reduced or lessened by the construction of a sidewalk or footpath, the supervisors shall have the right to lay out and construct a sidewalk or footpath along such dangerous portion of said road or highway of such materials as they shall deem advisable, and to expend moneys from the general fund of the township therefor. In case the

Act of May 1,
1933 P. L. 103,
amended by add-
ing new section
1404.

* "owners," in original.

highway is a State or county highway, the written consent of the Department of Highways or the county commissioners, as the case may be, shall first be obtained.

Section 31. Sections 1501 to 1511 inclusive are hereby reenacted, revised and amended to read as follows:

Sections 1501 to 1511, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

ARTICLE XV

SEWERS AND DRAINS

- (a) Establishing and Constructing Sewer and Drainage Systems; Sewer Connections and [Rates]
Charges; Disposal of Sewage; Assessment of Cost of Construction

Section 1501. Power to Establish and Construct Sewers and Drains [Sewer Rentals].—Townships 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 seems 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. In case any owner [or owners] of property adjoining or adjacent to such sewer shall neglect or refuse to connect with and use said sewer for a period of [thirty] *sixty* days after notice to do so has been served upon him [or them] by the supervisors, either by personal service or by registered mail, said supervisors or their agents, [employes and servants] may enter upon such property and construct such connection [or connections]. In such case the supervisors shall forthwith, upon completion of the work, send an itemized bill of the cost of construction of such connection [or connections] to the owner [or owners] of the property to which connection has been so made, which bill shall be payable forthwith. In case of neglect or refusal by the owner [or owners] of such property to pay said bill, it shall be the duty of the township supervisors to file municipal liens for said construction within six months of the date of completion of the construction of said connection [or connections], the same to be subject in all respects to the general law providing for the filing and recovery of municipal liens. [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 1502. Notice of Contemplated Construction; Protests by Property Owners.—No sewer, *drain* or system [of sewers, or drains] *thereof* shall be constructed under the provisions of this [subdivision,] *article* unless a resolution or *ordinance* 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] *before the expiration of* twenty days after the last publication [or at any time during the period of publication], taxpayers of the township, or of the affected sewer district, if such district has been constituted, as hereinafter provided, whose property valuation, as assessed for taxable purposes within the township, or district shall amount to fifty per centum of the total property valuation, [as assessed] for [taxable] *such* purposes [within the township] of the township or sewer district, as the case may be, 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] *drain* or system [or drain] *thereof*, then the construction authorized by such resolution or *ordinance* shall not be undertaken or proceeded with.

Section 1503. Location of Sewers on Private Property.—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 and acquire the necessary land or right of way for such purpose, by gift or by the exercise of the right of eminent domain.

Section 1504. Treatment Works and Facilities Therefor; Eminent Domain.—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 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 mains, drains, or treatment works, including such lands, rights, and interests therein as shall be necessary for future additions to and enlargements of such sewerage or drainage 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 (Pamphlet Laws, two hundred and sixty), entitled "An act to preserve the purity of the waters of the State for the protection of public health," and of "The Administrative Code" law.

Section 1505. Entry on Lands to Mark Sewer Routes; Damages.—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] *general fund* of the township [raised by taxation] shall be pledged and deemed as security. Such damages shall be determined by viewers in the manner provided in this act for eminent domain proceedings.

Section 32. Section 1506 of the said act is *hereby repealed.

Section 33. Sections 1507 to 1511 inclusive of the said act are hereby reenacted, revised and amended as follows:

Section 1507. Cost of Construction; How Paid.—The cost of construction of any such system of sewers or drains, constructed by the authority of this subdivision [of this act], shall be charged upon the properties accommodated or benefited thereby to the extent of such benefits in the manner hereinafter provided.

The township supervisors may finance the cost of construction of any such system of sewers or drains, by the issuance of general obligation bonds of the township, within the constitutional and statutory limitations for the incurring or increasing of indebtedness, and pursuant to the provisions of [the laws] *law* relating to the borrowing of money by political subdivisions. [Any general obligation bonds issued for such purpose or purposes shall be supported by the levy of a general tax sufficient for the payment of the interest thereon, together with any taxes covenanted to be paid thereon, and the principal of such bonds at maturity.] Where general obligation bonds are so issued, the supervisors shall nevertheless be required to assess the cost of the construction of such sewers or drains, to the extent permitted by law, against the properties accommodated or benefited by such improvements as **hereinafter pro-

Section 1506, act of May 1, 1933 P. L. 103, repealed.

Sections 1507 to 1511, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

* "herbey," in original.

** "hereinbefore," in original.

vided, and to deposit the proceeds of such assessments in the sinking fund established for the purpose of retiring such general obligation bonds.

Nothing in this section shall be construed to prevent the financing of the cost of such construction under the provisions of the "Municipal Authorities Act of 1945," and any amendments thereto.

Section 1508. Sewer Districts; Township to Pay Non-Assessable Portion of Cost.—Whenever a sewer or drainage system is constructed by a township for the accommodation of a certain portion of the township, the supervisors of such township may, at any time before or after said construction, 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.

In all cases where a sewer or drainage system is constructed by a township for the benefit of a certain portion only of the township, and the cost of main sewers, pumping stations, pressure lines, et cetera, is charged against the sewer district or sewer districts, as herein provided, the total amount charged to each district may be assessed to the district by an assessment upon each lot or piece of land in said district, in proportion to its frontage abutting on the sewer, or by an assessment upon the several properties abutting on the sewer, in proportion to benefits, or [the total amount charged to each district may be assessed] upon the properties connected with and using said sewers, as sewer rentals, in the manner provided by law for the assessment of sewer rentals, or each lot or piece of ground abutting upon said sewer may be assessed, in proportion to its frontage or according to benefits, the cost of a local sewer, and the balance of the amount charged against the district may be assessed upon the properties connected with and using said sewer, as sewer rentals in the manner provided by law for assessment of sewer rentals. 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.] 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 1509. Manner of Assessment.—The charge for any such sewer or *drain* construction in any township shall be assessed upon the properties accommodated or benefited, in either of the following methods:

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

(b) By an assessment upon the several properties abutting on the sewer or *drain* in proportion to benefits. The amount of the charge on each property shall be ascertained as hereinafter provided.

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

Section 1510. Procedure for Assessment of Benefits.—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 or *drainage* system, to either [ordain] make 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] so 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 taxpayer shall, within three months of the adoption of a resolution or ordinance levying an assessment under the method provided by subsection (a) of said foregoing section, 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] none of whom shall be *a resident of that portion of the township which is accommodated by the sewer or *drainage system* in question,

* "a." omitted in original.

and the viewers so appointed shall proceed as provided in this act for proceedings for the assessment of damages and benefits by viewers. 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 *or drain* 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 of a resolution *or ordinance* 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.] *stayed pending the disposition of the petition by the court.*

Section 1511. Liens for Assessments; Costs of Proceedings.—After the amount of the assessment charged upon the several properties has been established, either by resolution *or ordinance* 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 of municipal liens. The] *the amounts of all assessments shall be payable to the township treasurer for the use of the sewer district or districts or the township, as the case may be, in which they are assessed.* 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. *If any such assessment is not paid within sixty days after the mailing of a bill therefor, the supervisors shall cause it to be collected by action of assumpsit, or such assessment shall be collected in the manner provided for the filing and recovery of municipal claims.*

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

Act of May 1,
1933 P. L. 103,
amended by adding new section
1512.

Section 34. The said act is hereby amended by adding thereto a new section, known as section 1512 as follows:

Section 1512. Sewer Rentals.—All persons whose property connects with a system of sewers or drains shall pay to the township treasurer, in addition to the cost of making such connection, a monthly, quarterly, semi-annual or annual charge prescribed by a resolution of the board of supervisors. Such monthly, quarterly, semi-annual or annual charge or charges 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 Utility Law.

Section 35. Subdivisions (b) and (c) of Article XV and sections 1515 and 1520 of the said act are hereby repealed.

Section 36. Sections 1525 to 1531 inclusive of the said act are hereby reenacted, revised and amended as follows:

[(d)] (b) Sewers Under State and County Highways

Section 1525. Consents Necessary.—Townships may construct sewers and drains in [and] or under any county or State highway [or State-aid highway] within the township boundaries. In case of the construction of sewers [upon] or drains in or under county highways, the consent of the county commissioners of the county shall first be obtained, and in case of the construction of sewers [upon] or drains in or under any State highway [or State-aid highway], the consent of the Secretary of Highways shall first be obtained.

Section 1526. Assessment of Cost.—Whenever sewers or drains have been or shall be laid or constructed by any township in [and] or under [such] State or county highways, [such] the township, unless the same can be agreed upon, may ascertain, levy, and collect the costs and expenses of the construction thereof from the abutting property holders by viewers in accordance with the provisions of this act relating to the assessment of damages and benefits by viewers.

[(e)] (c) Connecting with Sewer of Adjoining Municipality

Section 1530. Agreements for Connections; Appointment of Viewers.—Any township may, by agreement, connect with an existing sewer owned by any adjacent municipality, for sewage purposes, in the following manner:

[An application shall be made] A petition shall be presented by the board of supervisors to the court of quarter sessions setting forth [that fact.] the facts. The

Subdivisions (b) and (c) of Article XV and sections 1515 and 1520, repealed.

Sections 1525 to 1531, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

court shall fix a day for hearing upon such petition and shall direct such public notice to all parties interested therein as to it shall seem desirable. If, after hearing, 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 necessary costs and expenses of making the connection, and* the proportionate part of the expense of building the original sewer upon such township, and shall fix the proportion of the expense for repairs which the municipality and the township shall thereafter bear, and determine all other questions liable to arise in connection therewith.

Section 1531. Report of Viewers.—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] *which* exceptions, any party interested may appeal [from the decision of the court of quarter sessions] to the Superior Court *as in other cases.*

Section 1532, act of May 1, 1933 P. L. 103, repealed.

Section 37. Section 1532 of the said act is hereby repealed.

Sections 1535 to 1545, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 38. Sections 1535 to 1545 inclusive of the said act are hereby reenacted, revised and amended as follows:

[(f)] (d) Acquisition of Sewer Systems

Section 1535. *Acquisition.*—Any township, 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] *general fund* of the township [raised by taxation] shall be pledged and deemed as security; such damages to be determined by viewers in the manner provided by this act for eminent domain proceedings. 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

* "redistributed," in original.

system had been constructed by such township under the provisions of this act.

[(g)] (e) Joint Sewers and Drains

Section 1540. [Building] Joint Sewers. — (a) Townships may jointly with [municipalities] *cities, boroughs* or other townships build and construct sewers, including trunk-line sewers or drains and sewage treatment works, and may connect into such system existing sewers, and may assess their respective portions of the cost thereof, or so much thereof as may be legally assessable, upon property benefited by the improvement as is provided in the case of townships by sections one thousand five hundred and nine, one thousand five hundred and ten, and one thousand five hundred and eleven of this act. Any portion of the cost of such an improvement not assessed or not assessable shall be paid by the respective townships, cities, and boroughs joining as may be agreed upon.

(b) The townships, cities, and boroughs joining or contemplating joining in any such improvement, in order to facilitate the building of the same and *in securing preliminary surveys and estimates*, may by [resolution or] ordinance provide for the appointment of a joint sewer board composed of one representative from each of the townships, cities, and boroughs joining which shall act generally as the advisory and administrative agency in the construction of such improvement, and its subsequent operation and maintenance. The members of such board shall serve for terms of six years each from the dates of their respective appointments, and until their successors are appointed. The [joint sewer] board shall organize by the election of a chairman, vice-chairman, secretary, and treasurer. The several townships, cities, and boroughs may, in the [resolutions and] ordinances creating the [joint sewer] board, authorize [the board] *it* to appoint an engineer, a solicitor, and such other assistants as are deemed necessary; and agree to the share of the compensation of such persons each township, city, and borough is to pay. The members of the [joint sewer] board shall receive such compensation for attending *its* meetings [of the board] as shall be fixed in the budget, prepared by the board [for submission] *and submitted to*, and [adoption] *adopted* by, the several townships, cities, and boroughs as hereinafter provided. [and the] *The* budget item providing for the compensation to members for attending meetings shall not exceed a total of two hundred and fifty dollars [\$250] per year, [and no member shall be paid unless

he actually attends, and the fee for each such attendance shall be stipulated, and] *but* the members in addition thereto, shall be entitled to actual expenses to be paid by the respective townships, cities, and boroughs which such members represent. *The fee for each attendance at meetings shall be stipulated and no member shall be paid such fee for any meeting which he does not attend.*

(c) The joint sewer board shall have power to adopt rules and regulations to govern its proceedings, and shall prepare and suggest any practical measures and plans by means of which the joint improvement may be carried to successful completion; and the future development of the system, so as to conform to a general plan, assured and safeguarded. It shall have power to prepare a joint agreement or agreements for submission to and adoption by the several townships, cities, and boroughs defining the advisory and administrative powers of the board; setting forth the consents of the several townships, cities, and boroughs to the proposed improvement; the manner, *which shall not be inconsistent with the provisions of this act*, in which preliminary and final plans, specifications, and estimates for the proposed improvement shall be prepared and adopted; [how] *and in which* proposals for bids shall be advertised, and contracts let; the manner in which the costs of the improvement and other incidental and preliminary expenses in connection therewith, and the future cost of operation and maintenance shall be equitably shared, apportioned, and paid; and all such other matters, including the preparation and submission of annual and other budgets, as may be deemed necessary or required by law to carry the proposed improvement to completion and to assure future maintenance and operation thereof. But nothing herein contained shall authorize the board to make any improvement or expend any public moneys which has not first been authorized by all of the townships, cities, and boroughs proceeding with the improvement.

(d) In any case where it shall be necessary to acquire, appropriate, [injure] *damage*, or destroy private property [(lands, property, or material)] to build any such joint sewer improvement, and the same cannot be acquired by purchase or gift, the right of eminent domain shall vest in the township, city, or borough where such property is located. In any *such* case where it shall be necessary to acquire, [injure] *damage*, or destroy property in any territory not within the limits of any of the townships, cities, or boroughs joining in the improvement; then the right of eminent domain shall be vested in any township, city, or borough adjacent to

such territory where such property is located. Damages for any property taken, [injured] *damaged*, or destroyed shall be assessed as provided by the general laws relating to the *townships, cities, and boroughs exercising the right of eminent domain; and shall be paid by the several townships, cities, and boroughs joining in the same proportion as other costs of the improvements.

Section 1541. State Permit.—No such sewer or plant shall be constructed until plans and specifications have been submitted to the State Department of Health and approved, in accordance with *law*. [provisions of the act of April twenty-second, one thousand nine hundred and five (Page, two hundred and sixty), entitled “An act to preserve the purity of the waters of the State for the protection of the public health.”]

[h] (f) Non-debt Revenue Sewer Bonds

Section 1545. Sewer **Bonds.—For the purpose of financing the cost or expense, or its share of the cost or expense, of constructing or acquiring a sewer, sewer system or sewage treatment works, either singly or jointly with [other municipalities] *cities, boroughs* or *other* townships, [or both] any township may issue *and sell, in accordance with the provisions of the Municipal Borrowing Law*, non-debt revenue bonds secured solely by a pledge, in whole or in part, of the annual rentals or charges for the use of such sewer, sewer system or sewage treatment works. [Said bonds shall not pledge the credit, nor create any debt, nor be a charge against the general revenues, nor be a lien against any property of the township, but shall be a lien upon and payable solely from the annual rentals or charges for the use of said sewer, sewer system or sewage treatment works.

Whenever any township has enacted an ordinance or resolution imposing a sewer rental or charge upon properties to be served by such sewer system or sewage treatment works when the same is completed, and has pledged sufficient of the revenues to be derived therefrom for the payment of the interest and sinking fund charges on such non-debt revenue bonds, it shall have power to authorize the issue and sale of such non-debt revenue bonds, from time to time, as the work of construction proceeds, and sufficient additional non-debt revenue bonds, as may be necessary, may be issued and sold to provide for the interest and sinking fund charges accruing thereon, until said sewer system or sewage treatment works has been completed and has been in operation for not exceeding one year, in order to provide

* “township,” in original.

** “Bond,” in original.

sufficient revenues until such time as sewer rentals or charges may be collected from the owners of properties being served.

Nothing in this section shall be construed to abridge or restrict, or in any way impair, the right of any township to create indebtedness in accordance with existing laws.]

Sections 1550 and 1551, act of May 1, 1933 P. L. 103, repealed.

Sections 1601 to 1612, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 39. Sections 1550 and 1551 of the said act are hereby repealed.

Section 40. Sections 1601 to 1612 of the said act are hereby reenacted, revised and amended as follows:

ARTICLE XVI

WATER SUPPLY AND WATERWORKS

Section 1601. *Contracts With Water Companies and Municipalities.*—The supervisors of any township may, by contract with any private corporation or any adjacent municipality owning a waterworks system, provide for a supply of water for public and private uses, [to be delivered into the lines of the township at or near the boundary thereof, or] to be delivered through lines owned by such company or municipality within such township, or any part thereof. *The contract shall provide how and in what manner the cost of such water service shall be paid by the consumers thereof.*

Section 1602. *Water Lines and Connections.*—Township supervisors shall have full power *[by] to contract with any private corporation, or any adjacent municipality owning a waterworks system, to provide for a supply of water for public and private uses to be delivered into the lines of the township at or near the boundary thereof. In such case the supervisors shall have the power, by contract, to lay water lines, and to provide for extensions thereof, and to regulate the making of connections therewith. [or to contract or enter into agreements with any private water company or municipality for the laying of water lines within the limits of such township, or any part thereof.]

Section 1603. [**Expenditure of Township Moneys;] *Water Rents.*—The township supervisors are authorized to [expend moneys of the township for the purpose of providing such water lines and connections, and for the purpose of providing a supply of water for private and public use. They may] provide for the collection of water rents from users of [such] water, *supplied by the township.* [or may enter into contracts or agreements with private corporations and municipalities supplying such water for the collection by such private corporations and municipalities of water rents from such users.]

* "[by]," omitted in original.

** "Expenditures," in original.

Section 1604. *Distribution System; State Permit.*—The supervisors of any township may, by [resolution,] *ordinance* provide, *acquire, establish,* regulate, and protect any system of distribution of water for private and public use after a certified copy of the plans and surveys for such system, with a description of the sources from which it is proposed to derive the supply, are filed with the Department of Health, and a written permit for the construction of such system obtained from the Secretary of Health, in accordance with [existing] law.

Section 1605. *Occupation of Highways.*—In providing for regulating, protecting, and extending its system of distribution of water, the township may occupy public highways, but no highway under the jurisdiction of the [State] Department of Highways shall be occupied until a permit therefor has been obtained from [the Department of Highways of the Commonwealth,] *such department* nor any highway under the jurisdiction of the county until a permit therefor has been obtained from the county commissioners.

Section 1606. *Joint Construction, Acquisition or Maintenance of Works [with a Borough].*—Any township may [unite] *join* with a *city, borough or another township of either the first or second class* in the construction or acquisition and maintenance of works for the supply of water. The construction of such waterworks shall be commenced only after plans for such waterworks have been filed with the [State Secretary] *Department of Health, and the Water and Power Resources Board,* and [a permit] *permits* issued in accordance with [the act of Assembly of April twenty-second, one thousand nine hundred and five (Page, two hundred sixty), entitled “An act to preserve the purity of the waters of the State for the protection of the public health,” and after a permit has been issued by the Water and Power Resources Board for the construction of any dam, in accordance with the act of the twenty-fifth day of June, one thousand nine hundred and thirteen (Pamphlet Laws, five hundred fifty-five), entitled “An act providing for the regulation of dams or other structures or obstructions, as defined herein, in, along, across, or projecting into all streams and bodies of water wholly or partly within, or forming part of the boundary of, this Commonwealth; vesting certain powers and duties in the Water Supply Commission of Pennsylvania for this purpose; and providing penalties for the violation of the provisions hereof”] *law.*

Section 1607. *Commission of Waterworks.*—[Whenever any township unites with a borough in the construction or acquisition and maintenance of waterworks,

the supervisors of such township, after the passage of a resolution to that effect, may join with the councils of such boroughs, now authorized by the General Borough Law so to join, and apply to the court of common pleas for the appointment of a commission of waterworks. Such commission shall be composed of citizens of each of the boroughs and townships so uniting.] *The townships, cities and boroughs joining in any such improvement, in order to facilitate the building of the same and in securing preliminary surveys and estimates, may, by ordinance, provide for the appointment of a joint commission of waterworks composed of one representative from each of the townships, cities and boroughs joining which shall act generally as the advisory and administrative agency in the construction of such improvement and its subsequent operation and maintenance. The members of such board shall serve for terms of six years each, from the dates of their respective appointments and until their successors are appointed. The commission shall organize by the election of a chairman, a vice chairman, secretary and treasurer. The several townships, cities and boroughs may, in the ordinances creating the commission, authorize it to appoint an engineer, a solicitor and such other assistants as are deemed necessary, and agree to the share of the compensation of such persons each township, city and borough is to pay. The members of the commission shall receive such compensation for attending its meetings as shall be fixed in the budget prepared by the commission and submitted to and adopted by the several townships, cities and boroughs, as hereinafter provided. The budget item providing for the compensation to members for attending meetings shall not exceed two hundred and fifty dollars per year, but members in addition thereto shall be entitled to actual expenses to be paid by the respective townships, cities and boroughs which such members represent. The fee for each attendance at meetings shall be stipulated and no member shall be paid such fee for any meeting which he does not attend.*

Section 1608. Public [Service Company] *Utility Law Saved.*—Nothing contained in this article shall be construed to repeal or to supersede any of the provisions of the Public [Service Company] *Utility Law.*

Section 1609. Water Districts; Application of Taxpayers.—Whenever the taxpayers of any section of a township whose property valuation, as assessed for taxable purposes within such section, shall amount to fifty per centum of the total property valuation, as assessed for taxable purposes within such section, shall, by petition, so request, the supervisors of such township shall

constitute such section into a water district or divide it into several water districts. In every *such case of division into several districts, the supervisors shall [make an estimate of] *determine* the proportion of the cost of the water 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 pipe lines, 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.

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

Section 41. The said act is hereby amended by adding thereto a new section known as Section 1609.1.

Section 1609.1. Non-debt Revenue Bonds; Water Rents.—Where a township contracts to lay water lines, or extensions thereof, as provided in section one thousand six hundred two, or provides, acquires or establishes any water system, as provided in section one thousand six hundred four, or unites with any city, borough or other township in the construction and acquisition of works for the supply of water as provided in section one thousand six hundred six, or provides for the construction of a water system in any water district as provided in section one thousand six hundred nine, the supervisors shall have power to issue and sell in accordance with the provisions of the Municipal Borrowing Law, non-debt revenue bonds, secured solely by a pledge in whole or in part of the rentals or charges for water service, and for such purposes the supervisors shall have power to provide for the collection of water rents from users of such water service, sufficient in amount for the payment of interest and sinking fund charges on such non-debt revenue bonds and the cost of furnishing water service.

Section 42. Sections 1610 to 1612 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

Section 1610. [Manner of] Assessment. — [The charge for any such water system construction in any township shall be assessed] *In lieu of issuing and selling non-debt revenue bonds, as provided in section one thousand six hundred nine point one of this act, the township supervisors may provide for the payment of the cost of water lines or water system in the township or in districts thereof by an assessment upon the properties accommodated or benefited in either of the following methods:*

Act of May 1,
1933 P. L. 103,
amended by add-
ing new section
1609.1.

Sections 1610 to
1612, act of May
1, 1933 P. L.
103, reenacted,
revised and
amended.

* "such," omitted in original.

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

(b) By an assessment upon the several properties abutting on the mains in proportion to benefits. The amount of the charge on each property shall be ascertained as hereinafter provided.

When there is more than one district, the assessment in each district may be by different methods.

Section 1611. Procedure for Assessment of Benefits.—In all cases where the board of supervisors shall select the method provided [by **subdivision] in subsection (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 water system to either ordain assessments by frontage or present petition for appointment of viewers, taxpayers of the district or districts affected whose property valuation, as assessed for taxable purposes within the district, shall amount to fifty per centum of the total property valuation, [as] so 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 (a) of said foregoing section, 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] none of whom shall be a resident of that portion of the township which is accommodated by the water system in question, and the viewers so appointed shall proceed as provided in this act for proceedings for the assessment of damages and benefits by viewers. The aggregate of the assessments in any water

* "a," omitted in original.

** subdivisions," in original.

district shall not exceed the amount charged to such district for its share of the cost of the water system 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 districts affected, presented within three months after the adoption of a resolution *or ordinance* 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] *stayed pending the disposition of the petition by the court.*

Section 1612. Liens for Assessments; Costs of Proceedings.—After the amount of the assessment charged upon the several properties has been established, either by resolution *or ordinance* 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, *ordinance* 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 of 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 amount charged against each property, which shall be forthwith sent to all property owners [effected] *affected* 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.

ARTICLE XVII

PUBLIC BUILDINGS

Section 43. Section 1701 of the said act is hereby repealed.

Section 44. Sections 1702 to 1802 inclusive of the said act are hereby reenacted, revised and amended as follows:

Section 1702. Town Hall.—The supervisors of townships may procure a suitable lot of ground, and erect *or use* a suitable building thereon for a [townhouse in

Section 1701, act of May 1, 1933 P. L. 103, repealed.

Sections 1702 to 1802, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

* "cost," in original.

which to hold elections, store road machinery, hold meetings of township officers, and community activities, and] *town hall* for [other] township [uses] *purposes*. For the purpose of procuring a *lot of ground and erecting a town hall, the supervisors may borrow money at a rate of interest not exceeding six per centum and issue bonds therefor.

Section 1703. Unloaders and Warehouses.—Townships may purchase or lease land [adjacent to the tracks or right of way of any railroad or street railway,] within or without the limits of such townships, and erect thereon suitable unloaders, warehouses, or other buildings as may be necessary for unloading, handling, and storing road materials and supplies.

Section 1704. Appropriation of Property.—Townships may enter upon and appropriate private property [and also land heretofore granted or dedicated to public or other use, within the limits of such township, and which is no longer used for the purpose for which the same was granted or dedicated,] for the erection thereon of a town hall, [hose house, lockup,] and such other public buildings as are necessary for public purposes. No land or property used for any cemetery, burying ground, public or parochial school, educational or charitable institution, seminary, or place of public worship shall be taken or appropriated by virtue of any power contained in this section.

Section 1705. Resolution of Supervisors.—Whenever the supervisors desire to acquire, enter upon, take, use, and appropriate private property or lands for public buildings, they shall declare such intention by [a resolution] *an ordinance* [duly enacted].

Section 1706. How Damages Are Assessed.—The compensation and damages arising from such taking, using, and appropriating of private property for such purposes shall be [considered] ascertained, determined, awarded, and paid in the manner provided in this act for eminent domain proceedings.

Section 1707. Use of Public Land Acquired for Other Purposes.—Whenever the supervisors desire to take any lands heretofore granted or dedicated to a use or purpose for which they are no longer used, they shall pass [a resolution] *an ordinance* declaring such intention and shall thereupon petition the court of common pleas for leave to file the bond of [such] *the township* for the purpose of securing any person or persons who may be [injured by the] *entitled to compensation for such taking* [of such lands]. The court shall thereupon direct notice to be given by publication in at least two newspapers [of] *circulating generally in the county*.

* "plot," in original.

[If no exceptions are filed to the bond on or before the day fixed in the notice, the court shall approve the same.] The court may increase the amount of the bond, and shall hear [and determine] all exceptions that are filed against the [approval thereof] *petition and the sufficiency of the bond, and may grant or deny the prayer of the petition.* Upon the *granting of the petition and the approval of [such] the bond,* the supervisors may enter upon and take such lands for the purposes of erecting public buildings. The bond, which shall be in the name of the Commonwealth, for the use of any person or persons who are entitled to damage by reason of the taking of the lands, shall remain on file for their use and benefit.

In case the compensation for damages, accruing from any such appropriations, has not been agreed upon by the parties in interest, the same may be assessed by viewers in accordance with the provisions of this act for the assessment of damages in eminent domain proceedings.

ARTICLE XVIII

LICENSES AND LICENSE FEES

(a) Transient Retail Merchants

Section 1801. Transient Retail Merchants to Be Licensed.—Every person, whether principal or agent, entering into, beginning, or desiring to begin, a transient retail business in any township for the sale of any goods, wares, or merchandise 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 supervisors of the said township: 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.

Section 1802. Amount and Payment of License Fee; Penalty.—The amount of such license in any township shall be the sum of twenty-five dollars [(\$25)] per month, or fractional part thereof, to be paid to the township treasurer. Said license shall be renewed monthly during the continuance of said sale, and upon failure of [said] *any* person [or persons] so to secure such license, he [she, or they] shall, *upon conviction* in a summary proceeding, be fined [in a sum not less than one hundred dollars (\$100) nor] *not* more than two hundred dollars, [(200),] and, in default of pay-

ment of said fines, shall be imprisoned in the jail of the county for a period not exceeding thirty *(30) days.

Section 1803, act of May 1, 1933 P. L. 103, repealed.

Section 45. Section 1803 of the said act is hereby repealed.

Sections 1811 to 1917, act of May 1, 1933 P. L. 103, reenacted, revised and amended.

Section 46. Sections 1811 to 1917 inclusive of the said act are hereby reenacted, revised and amended to read as follows:

(b) Restrictions

Section 1811. Agents for Licensed Dealers Not to be Licensed.—It shall be unlawful for any township to levy any license fee or mercantile tax upon any persons taking orders for merchandise, by sample, from dealers or merchants. [for individuals or companies who pay a license or mercantile tax at their chief places of business.] Nothing in this section shall authorize any person to sell by retail to others than dealers or merchants.

Section 1812. Insurance Agents and Brokers Not to Be Licensed.—It shall be unlawful for any township to impose or collect any license fee upon insurance companies, or their agents, or insurance brokers, authorized to transact business under the Insurance Laws of the Commonwealth.

Section 1813. License Fees on Residents Not to Exceed Those on Nonresidents.—It shall be unlawful for any township to impose, [by resolution or] exact or collect, [under the provisions of any resolution heretofore or hereafter enacted] any license tax or fee upon or from any manufacturer, or the agent, representative, or employe **or any manufacturer, who is a resident of the Commonwealth, for soliciting orders for or for selling any goods, merchandise, or wares manufactured within this Commonwealth that is not or cannot legally be imposed upon or exacted or collected from any manufacturer or dealer, or the agent, representative, or employe of any manufacturer, who is a nonresident of the Commonwealth, for soliciting orders for or for selling any goods, merchandise, or wares manufactured without the Commonwealth.

ARTICLE XIX

PARKS, PLAYGROUNDS, GYMNASIUMS, PUBLIC BATHS, SWIMMING POOLS, INDOOR RECREATION CENTERS, AND FORESTS

Section 1901. Designation and Acquisition of Lands.—The [township] supervisors of any township may *by ordinance* designate and set apart for use as parks, playgrounds, playfields, gymnasiums, public baths, swimming

*“(30),” omitted in original.

**“of,” in original.

pools, or indoor recreation centers, *hereinafter called recreation places*, any lands or buildings, owned by such township, and not dedicated or devoted to other public use. Such township may, in such manner as may be authorized or provided by law for the acquisition of lands or buildings for public purposes in such township, acquire lands or buildings therein for [use as parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers,] *any of such purposes* or, if there be no law authorizing such acquisition, the township supervisors may acquire lands or buildings for such purposes by gift or purchase, or may lease lands or buildings in such township for temporary use for such purposes.

Section 1902. Park and Recreation Boards.—The authority to supervise and maintain [parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor] *such recreation [centers] places* may be vested in any existing body or board or in a park board or recreation board as the township supervisors may determine. The [local authorities of any such township] *supervisors* may equip, operate and maintain [the parks, playgrounds, playfields, gymnasiums, swimming pools, public baths, or indoor] *such recreation [centers,] places* as authorized by this [act] *article*. Such [local authorities] *supervisors* may, for the purpose of carrying out the provisions of this [act] *article*, employ play-leaders, recreation directors, supervisors, superintendents, or any other officers or employes as they deem proper.

Section 1903. Appointment of Park and Recreation Boards.—If the township supervisors shall determine that the power to equip, operate, and maintain [parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, or] *such recreation [centers] places* shall be exercised by a park board or recreation board, they may establish, in said township, such park board or recreation board. [which shall possess all the powers, and be subject to all the responsibilities, of the respective local authorities under this act.] *Either of such boards*, when established, shall consist of five persons. The members of such boards shall be appointed by the supervisors, and shall serve for terms of five years or until their successors are appointed, except that the members of such board first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter. Members of such board shall serve without pay. Women shall be eligible for appointment. Vacancies in such board occurring otherwise than

by expiration of term shall be for the unexpired term, and shall be filled in the same manner as original appointments.

Section 1904. Officers of Board.—The members of a park board or recreation board, established pursuant to this [act] *article*, 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 prior approval of the supervisors*, employ such persons as may be needed as authorized by this [act] *article*. Such boards shall have power to adopt rules and regulations for the conduct of all business within their jurisdiction.

Section 1905. Joint Municipal Acquisitions.—Any township may, jointly with any one or more townships, boroughs and cities, acquire property for and operate and maintain any [parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor] *such recreation [centers] places*.

Section 1906. Bond Issues.—The township supervisors may issue bonds for the purpose of acquiring lands or buildings for [parks, playgrounds, playfields, gymnasiums, swimming pools, public baths, or indoor] *such recreation [centers] places* and for the equipment thereof.

Section 1907. Cost of Maintenance; Annual Tax Levies.—All expenses incurred in the operation of such [parks, playgrounds, playfields, gymnasiums, swimming pools, public baths, or indoor] recreation [centers] *places*, established as herein provided, shall be payable from the [treasury of such] *general township fund*. The [local authorities of such township, having power to appropriate money therein,] *supervisors* 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 township, for the purpose of maintaining and operating [parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, and] *such recreation [centers] places*.

Section 1908. Right of Acquisition of Forest Lands.—Townships may *acquire, by purchase, gift or lease, and hold tracts of land covered with forest or tree growth, or suitable for the growth of trees, and administer the same under the direction of the [Secretary] *Department of Forests and Waters*, in accordance with the practices and principles of scientific forestry, for the benefit of the township. Such tracts may be of any size suitable for the purpose, and may be located within or without the township limits.

* "require," in original.

Section 1909. Approval of Secretary of Forests and Waters.—Before the passage of any [resolution] *ordinance* for the acquisition of land to be used as township forests, the township supervisors shall submit to the [Secretary] *Department* of Forests and Waters and secure [his] *its* approval of the area and location of such land.

Section 1910. Resolution and Notice.—Whenever the township supervisors deem it expedient to acquire any lands for forests, they shall so declare by [a resolution] *an ordinance*, wherein shall be set forth all facts and conditions relating to the proposed action. [which proposed resolution shall be advertised once a week for three weeks prior to its passage.]

Section 1911. Appropriation for Acquisition.—All money necessary for the purchase of such tracts shall be appropriated in the same manner as appropriations for township purposes, and such funds may be provided from the current revenue or by the proceeds of a sale of *general obligation* bonds in accordance with existing law.

Section 1912. Control of Forests by Secretary of Forests and Waters.—Upon the acquisition of any forests or lands suitable for forests, the township supervisors shall notify the [Secretary] *Department* of Forests and Waters, [who] *which* shall make such rules for the government and proper administration of the same as may be *deemed* necessary; and the [secretary] *department* shall publish such rules, declare the uses of the forest in accordance with the intent of this article, and make such provision for its administration, maintenance, protection, and development as shall be *deemed* necessary or expedient. The rules governing the administration of such forests shall have for their main purpose the producing of a continuing township revenue by the sale of forest products.

Section 1913. Appropriation for Maintenance.—All moneys necessary to be expended for the administration, maintenance, protection, and development of such forests shall be appropriated and applied as is now done for township purposes. All revenue and emoluments arising from such forests shall be paid into the *general* township [treasury, to be used for general township purposes] *fund*.

Section 1914. Use of Township Forests as Outing Grounds.—Township forests may be used by the public as general outing or recreation grounds, subject to the rules of *the Department of Forests and Waters* govern-

ing their administration, and rules adopted by the supervisors, not inconsistent with law and the rules of the department.

Section 1915. Disposition of Township Forests; Procedure; Ordinance; Submission of Question.—Whenever the township supervisors deem it expedient to [alienate] *sell or lease* any forest, or part thereof, or *products therefrom*, they shall so declare by [a resolution] *an ordinance*, wherein shall be set forth all the facts and conditions relating to the proposed action. [which proposed resolution shall be advertised once a week for three weeks prior to its passage.] No [resolution] *ordinance* shall be effective in legalizing such alienation until it has been approved by a majority vote of the people at the next ensuing election.

Section 1916. Appropriation of Moneys to *Forestry Organizations.—The supervisors of any township may appropriate moneys from [their respective treasuries] *the General Township Fund* to any forest protection association cooperating in forest work with the [State] Department of Forests and Waters, or to be expended in direct cooperation with [said Department of Forests and Waters] *such department* in forest work.

Section 1917. Approval of Electors for Acquisition of Land.—The township supervisors hereby are authorized, on behalf of the township, to accept the title to lands which may be donated to the township for any of the purposes mentioned in this article [of this act], but none of the other powers conferred upon them by [sections one thousand nine hundred and one to one thousand nine hundred and sixteen, inclusive,] *this article* shall be exercised by them except after the approval thereof by the electors of said township at an election for the purpose held on a regular municipal election day, of which election notice shall be given by publication in a newspaper of general circulation in the county in which the township is located, [and by at least twenty hand bills posted in as many public places in the township;] said publication [and posting] to be at least ten days before the day of the election.

Act of May 1,
1933 P. L. 103,
amended by add-
ing new Article
XX.

Section 47. The said act is hereby amended by adding thereto a new article, known as Article XX comprised of new sections 2001 to 2010 inclusive as follows:

ARTICLE XX

ZONING

Section 2001. Grant of Power.—For the purpose of promoting health, safety, morals or the general welfare of townships of the second class, the supervisors are

* "Forestry," in original.

hereby empowered to regulate and restrict the height, number of stories and size of buildings and other structures, their construction, alteration, extension, repair, maintenance and all facilities and services in or about such buildings and structures, and percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes, and may also establish and maintain building lines and set back building lines upon any or all public roads or highways. The power hereby granted shall be suspended in any township, or part of a township, during any period of time that any zoning ordinance, adopted pursuant to law by the county commissioners of the county, shall continue to be in effect in such township, or part of a township, and any ordinance adopted by any township before the adoption of such county ordinance shall likewise be suspended during such period. The power hereby granted shall not be exercised, if taxpayers, whose property valuation as assessed for tax purposes within the township shall amount to fifty one per centum or more of the total property valuation as assessed for tax purposes within the township or within the district of the township affected, if the township has been divided into districts as hereinafter provided, shall sign and file in the office of the prothonotary of the county in which the ownership is located, a written protest against the exercise of such powers.

Section 2002. Districts; Procedure.—(a) For any or all said purposes, the supervisors may divide the township into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this article, and within such districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in another district.

(b) The supervisors shall provide, by ordinance, the manner in which the boundaries of such districts shall be determined and established, and from time to time amended or changed. However no such boundary shall become effective until after public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in such township.

Section 2003. Purpose in View.—All regulations made pursuant to the powers granted in this article shall be made in accordance with a comprehensive plan and designed to lessen congestion in the roads and highways; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue congestion of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.

Section 2004. Method of Procedure.—The supervisors shall exercise the powers granted in section 2001 hereof, by ordinance, which shall provide for the enforcement of the regulations and restrictions established therein by reasonable fines and by the instituting of appropriate actions or proceedings at law or in equity, *and for at least one week and not more than three weeks prior to the presentation of the proposed ordinance, a notice of intention to consider such proposed ordinance and a brief summary setting forth the principal provisions of the proposed ordinance, in such reasonable detail as will give adequate notice of its contents, and a reference to the place or places within the township where copies of the proposed ordinance may be examined. The Department of Internal Affairs shall prepare suitable forms for such notice, which may be used by the supervisors of any township for this purpose.

The provisions of the ordinance need not be advertised or recorded as in other cases. Provisions respecting the construction, alteration, extension, repair, care and maintenance of buildings and structures may be supplied by reference to a standard building code, approved by the Department of Internal Affairs, or to parts thereof, determined by the supervisors, or such provisions of the ordinance may be supplied by reference to a typed or printed building code, prepared under the direction of or accepted by the supervisors, or such provisions may consist of a standard code, approved as aforesaid, or parts thereof, and also further provisions typed or printed as aforesaid. Copies of the provisions of the ordinance thus adopted by reference shall be made available to any interested party at the cost thereof,

* "and for," omitted in original.

or may be furnished or loaned without charge and a copy of such provisions of the ordinance, whether by reference to a standard building code or a combination of them shall be attached to the ordinance book with the same force and effect as if duly recorded therein.

The procedure set forth relating to the adoption of the ordinance may likewise be adopted in amending, supplementing or repealing any of the provisions of the ordinance.

Section 2005. Changes.—Such regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change, signed by the owners of twenty percent or more either of the area of the lots included in such proposed change or of those immediately adjacent in the rear thereof extending one hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of all the supervisors.

Section 2006. Zoning Commission.—In order to avail themselves of the powers conferred by this act, the supervisors shall appoint a commission of five citizens of the township to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission may consult the State Planning Commission of the Department of Commerce, and shall make a preliminary report and hold public hearings thereon before submitting its final report, and the supervisors shall not take action until they have received the final report of such commission.

Section 2007. Board of Adjustment.—The supervisors may appoint a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this article, may provide that said board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

The board of adjustment shall consist of three members, one of whom shall be designated to serve until the first day of January following the adoption of the zoning ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms to serve three years. The members of the board shall be removable for cause by the appointing authority upon

written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board 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 with the township secretary and shall be a public record.

Appeals to the board of adjustment may be taken by any person aggrieved or affected by any decision of the supervisors. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the township secretary and with the board of adjustment, a notice of appeal specifying the grounds thereof. The secretary shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the supervisors certify to the board of adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would in their opinion cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the supervisors and due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the supervisors in the enforcement of this article or of any ordinance adopted pursuant thereto.

(2) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(3) To authorize, upon appeal, in specific cases such variance from the terms of the ordinance as will not be contrary to public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above mentioned powers, such board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made. Notice of such decision shall forthwith be given to all parties in interest.

Any person aggrieved by any decision of the board of adjustment or any taxpayer or any supervisor may, within thirty days after such decision of the board, appeal to the court of common pleas of the county, by petition duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and specifying the grounds upon which he relies. Upon presentation of the petition in proper form, the court shall forthwith issue a writ of certiorari directed to the board of adjustment commanding it, within twenty days after the service thereof, to certify to the court, under the certificate of its chairman, its entire record in the matter in which the appeal has been taken. The prothonotary shall serve the board of adjustment by registered mail with a copy of the writ and a copy of the appeal petition. On or before the return day of the writ the board of adjustment shall file the entire record with the writ in the office of the prothonotary.

Any time during the pendency of an appeal, upon application of the appellant and upon due notice to the board of adjustment, the court or a judge thereof, may, after hearing, grant an order of supersedeas upon such terms and conditions including the filing of security as the court or the judge thereof may prescribe.

If upon the hearing of the appeal, it shall appear to the court that testimony is necessary for the proper disposition of the appeal, 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. The court may reverse or affirm, in whole, or in part, or may modify, the decision appealed as to it may appear just and proper.

Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Section 2008. Remedies.—In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building structure or land is used in violation of this article, or of any ordinance or other regulation made under authority conferred hereby, the supervisors, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

Section 2009. Certain Buildings of Public Utility Corporations Exempted.—This article shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the 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 2010. Finances.—The supervisors are empowered to appropriate out of the General Township Fund, such moneys, otherwise unappropriated, as they may deem fit, to finance the work of the township zoning commission and 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 from either private or public sources, State or Federal.

Act of May 1,
1933 P. L. 103,
amended by re-
numbering
Article XX as
Article XXI and
sections 2001
to 2006 as sec-
tions 2101 to
2106.

Section 48. The said act is hereby amended by renumbering Article XX as Article XXI and sections 2001 to 2006 inclusive as sections 2101 to 2106 inclusive as follows:

ARTICLE [XX] XXI

ACTIONS BY AND AGAINST TOWNSHIPS

Section [2001] 2101. Supervisors to Bring and Defend Suits.—All suits by a township shall be brought and conducted by the township supervisors. In all suits against a township, [process shall be served upon and] *defence shall be made by the township supervisors.

* "defense," in original.

Section [2002] 2102. Right of Taxpayers to Inquire Into Judgments.—Any taxpayer of any township may inquire into the validity of any judgment, or defend the township in any suit or judgment, upon filing a petition with the court of common pleas of the county in which suit is pending or judgment exists, accompanied by an affidavit that the taxpayer believes that injustice will be done to the township in such suit or judgment. Whenever it is deemed necessary, the court may order such taxpayer to file a bond, with one or more sureties, to be approved by court, to save harmless the township from all costs that may accrue in such proceeding subsequent to the filing of such petition.

Section [2003] 2103. Appeals by Taxpayers.—Whenever a judgment is rendered by any justice of the peace or alderman against any township, and a right of appeal is given to such township, and for ten days immediately after the rendition of such judgment the township officials neglect to perfect an appeal, any taxpayer of such township may take an appeal, in behalf of the township, from such judgment to the court of common pleas of the county, within the time prescribed for the taking of such appeal.

Section [2004] 2104. Affidavit and Bail by Taxpayers.—In taking the appeal, the taxpayer shall make an affidavit that the same is not taken for the purpose of delay, but because he verily believes that injustice has been done. The taxpayer shall pay the costs of the appeal, and enter sufficient bail for the payment of all costs before the justice of the peace or alderman and all costs in the court of common pleas.

Section [2005] 2105. Taxpayers Parties to Suits.—Upon the filing of such appeal in the court of common pleas of the county, the taxpayer shall be made a party to the suit, and shall have the right to defend such township therein.

Section [2006] 2106. Recovery of Municipal Claims.—In addition to the remedies provided by law for the filing of liens for the collection of municipal claims, [all townships] *a township* may proceed for the recovery and collection of *any* municipal [claims] *claim* by action of assumpsit against the person [or persons] who [were] *was* the owner [or owners] of the property at the time of the completion of the improvement, notwithstanding the fact that there was a failure on the part of any such township, or its agents, to enter [any] such municipal claim as a lien against the property assessed for the improvement, and for the recovery of which the action of assumpsit was brought.

Any such action in assumpsit shall be commenced within three years after the completion of the improvement from which said claim arises.

[This section shall extend to all municipal claims where improvement was heretofore made, where the action of assumpsit has been instituted under the provisions of prior acts of Assembly, and where the claim is not barred by the statute of limitations affecting actions of debt or assumpsit.]

Act of May 1,
1933 P. L. 103,
amended by re-
numbering
Article XXI as
Article XXII
and sections
2101 as 2201
and section 2101
is reenacted,
amended and
revised.

Section 49. The said act is hereby amended by renumbering Article XXI as Article XXII and section 2101 as section 2201 and so much of the said section as is hereinafter set forth is hereby reenacted, amended and revised as follows:

ARTICLE [XXI] XXII

REPEALS

Section [2101] 2201. *Nothing contained in this act shall be construed to revive any act, or part of any act, repealed by the act reenacted, amended or revised by this act.*

The following *additional* acts or parts of acts are hereby repealed as respectively indicated.

The act, approved the first day of May, one thousand nine hundred and thirteen (Pamphlet Laws 155, Number 104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," so far as it relates to townships of the second class.

The act, approved the tenth day of May, one thousand nine hundred and twenty-three (Pamphlet Laws 198), entitled "An act authorizing courts of quarter sessions to commit the care of certain burial grounds to the councils of boroughs, township commissioners and township supervisors of townships; and requiring boroughs and townships to pay the expenses in connection therewith," so far as it relates to townships of the second class.

The act, approved the twenty-second day of June, one thousand nine hundred and thirty-one (Pamphlet Laws 844), entitled "An act authorizing the Commonwealth of Pennsylvania, or any department or division thereof, and counties, cities, boroughs, incorporated towns, townships, school districts and poor districts to make contracts of life, health, and accident policies for the benefit of employes thereof, and contracts for pensions for such employes; and providing for the payment of the cost thereof," so far as it relates to townships of the second class.

The act, approved the twenty-second day of June, one thousand nine hundred and thirty-one (Pamphlet Laws 845), entitled "An act authorizing the publication of ad-

vertisements for bids for public works, supplies or equipment in certain publications and journals devoted to information about construction work," so far as it relates to townships of the second class.

The act, approved the first day of May, one thousand nine hundred and thirty-five (Pamphlet Laws 124, Number 47), entitled "An act authorizing the insurance of deposits of funds, of this Commonwealth and of the political subdivisions thereof, with the Federal Deposit Insurance Corporation or other similar agency; and prohibiting requiring further security for amounts so insured," so far as it relates to townships of the second class.

The act, approved the eighteenth day of July, one thousand nine hundred and thirty-five (Pamphlet Laws 1173), entitled "An act to prohibit discrimination on account of race, creed or color in employment under contracts for public buildings or public works," so far as it relates to townships of the second class.

The act, approved the sixteenth day of March, one thousand nine hundred and thirty-seven (Pamphlet Laws 98), entitled "An act authorizing political subdivisions to stipulate in specifications, upon which contracts for the construction, alteration or repairs of any public work or improvement are entered into, the minimum wages to be paid to laborers and mechanics, and providing for the stipulation of penalties in such contracts where such minimum wage stipulations are violated, and for the recovery of such penalties, and their return in certain cases," so far as it relates to townships of the second class.

The act, approved the first day of July, one thousand nine hundred and thirty-seven (Pamphlet Laws 2624), entitled "An act authorizing townships of the second class to adopt and enforce zoning ordinances regulating the location, construction, and use of buildings, the size of courts and open spaces, the density of population, and the use of land," absolutely.

The act, approved the fifteenth day of May, one thousand nine hundred and forty-five (Pamphlet Laws 538, Number 210), entitled "An act relating to the liabilities of elected and appointed officers of the various political subdivisions and limiting surcharges to the actual financial loss sustained," so far as it relates to townships of the second class.

It is the intention that this act shall furnish a complete and exclusive system for the government and regulation of townships except as to the several matters enumerated in section one hundred and three of article one of this act.

All other acts and parts of acts inconsistent with this act are repealed. This act shall not repeal or modify any of the provisions of the Public [Service Company] *Utility Law*; [nor the act, entitled "An act to preserve the purity of the waters of the State for the protection of the public health," approved the twenty-second day of April, one thousand nine hundred and five; nor the act of the twenty-fifth day of June, one thousand nine hundred and thirteen (Pamphlet Laws, five hundred fifty-five), entitled "An act providing for the regulation of dams or other structures or obstructions, as defined herein, in, along, across, or projecting into all streams and bodies of water wholly or partly within, or forming part of the boundary of, this Commonwealth; vesting certain powers and duties in the Water Supply Commission of Pennsylvania for this purpose; and providing penalties for the violation of the provisions hereof," except as modified by section one thousand three hundred and fifteen herein] *nor any local or special law*; nor any law relating to the Board of Commissioners of Navigation for the River Delaware, and its navigable tributaries; *nor the provisions of any law the enforcement of which is vested in the Department of Health, the Sanitary Water Board, the Department of Forests and Waters or the Water and Power Resources Board*; nor shall this act repeal or modify any of the provisions of any act of Assembly amendatory of law in force at the time of the passage of this act, or otherwise adopted at the session of the General Assembly of one thousand nine hundred and [thirty-three] *forty-seven*, whether such acts were adopted prior to the passage of this act, or shall be adopted subsequent to the passage of this act; nor shall this act repeal any such act, or part thereof, in force at the time of the passage of this act which is amended by any act of Assembly adopted at the session of the General Assembly of one thousand nine hundred and [thirty-three] *forty-seven*.

APPROVED—The 10th day of July, A. D. 1947.

JAMES H. DUFF