

SB 482

I 3 A 5

1873

Hollinger Corp.
pH 8.5

482
3 A5
73
py 1

Ill. AN ACT

IN REGARD TO THE

COMPLETION, IMPROVEMENT AND MANAGEMENT

OF

Public Parks and Boulevards

AND TO PROVIDE

A MORE EFFICIENT REMEDY FOR THE COLLECTION OF
DELINQUENT ASSESSMENTS.

APPROVED MAY 2, 1873.

CHICAGO:
KNIGHT & LEONARD, LETTER-PRESS PRINTERS.
1873.

SB482
13A5
1873

01920 Jan 10

AN ACT

IN REGARD TO THE COMPLETION, IMPROVEMENT AND MANAGEMENT OF PUBLIC PARKS AND BOULEVARDS, AND TO PROVIDE A MORE EFFICIENT REMEDY FOR THE COLLECTION OF DELINQUENT ASSESSMENTS.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That in any town which is now included within the limits of any city in this state, in which a board of park commissioners shall now exist, having authority by law to acquire land and the appurtenances in trust for the inhabitants of such town, and of a division or part of such city, and for such parties or persons as may succeed to the rights of such inhabitants and for the public as public promenade and pleasure-grounds and ways, but not for any other use or purpose, without the consent of a majority by frontage of the owners of the property fronting the same, and without the power to sell, alienate, mortgage or encumber the same, the corporate authorities of such town shall have the power to levy and collect annually a tax not exceeding three mills on the dollar of the taxable property in such town, according to the valuation of the same as made for the purposes of state and county taxation, to be used and expended by such park commissioners in governing, maintaining and improving such parks and boulevards or pleasure-ways, and paying other necessary and incidental expenses incurred in and about the management of such parks and boulevards.

SECTION 2. Such board of park commissioners shall annually, on or before the first day of August in each year, transmit to the corporate authorities of such town an estimate in writing of the rate or percentage of tax necessary to raise money sufficient to pay the cost of governing, maintaining and improving such parks and boulevards,

and the other necessary and incidental expenses to be incurred in and about the management of such parks and boulevards during the next succeeding year; and the corporate authorities of such town, if they or a majority of them decide to levy such tax, shall immediately certify to the county clerk of the county in which such town shall be located the rate of percentage of tax by them levied for the purposes herein provided; and it shall be and is hereby made the duty of the county clerk to whom such estimate shall be furnished, to set down in the general tax warrant of the year for the collection of state and county taxes, in a separate column, to be styled a "Park Tax," a tax in amount equal to the sum resulting from the rate or percentage so levied by said town officers upon the real and personal property within such town, according to the assessment-roll as returned for the purposes of state and county taxation next preceding the estimate herein authorized, and shall set down in each column the amount of tax chargeable to the several persons, corporations, lots or parcels of land liable for taxes in such town according to such rate or percentage, and the collector shall proceed to collect the same in such manner as is now or may hereafter be provided by law for the collection of state and county taxes, and provisions of law in respect to collection of state and county taxes, and proceedings to enforce the same, which are now in force, or which may be hereafter enacted, so far as applicable, shall apply to said taxes; and as fast as such tax shall be collected by the collector, or other officer receiving the same, it shall be paid over to such board of park commissioners, on the joint receipt of the president and treasurer of such commissioners, or such other officer of such board of commissioners as they may appoint to receive the same.

SECTION 3. In case such board of park commissioners shall desire to improve any boulevard or pleasure-way under their control, or any part thereof, or if such commissioners shall deem it necessary for drainage purposes to construct a sewer or sewers through any lands or streets not under their control, to connect with any natural or artificial outlet, they shall make plans and specifications for such contemplated improvement; in case such contemplated improvement is the construction of a sewer, they shall carefully designate the line thereof, and shall prepare estimates of the cost of such contemplated improvement, and transmit such plans, specifications and estimates

to the corporate authorities of the town where such improvement will be situated. Such corporate authorities may, upon the receipt of such plans, specifications and estimates, at their next meeting, whether the same be a regular or special meeting, or at any succeeding meeting, or at a special meeting called for that purpose, determine by ordinance, to be entered upon the records of such town, whether such improvement shall be made or not. If they shall determine to make the same, they shall also prescribe that the same shall be made by special assessment or special taxation of contiguous property.

Provided, That the tax authorized by section one of this act shall not exceed the sum of one hundred thousand dollars annually. If such ordinance shall provide that such improvement shall be wholly or in part made by special assessments, they shall direct the supervisor of such town to file a petition in the name of the town, in the county court of his county, for proceedings to assess the cost of such improvement; such petition shall recite the ordinance for the proposed improvement and the plans, specifications and estimates of the cost thereof, and pray that the cost thereof may be assessed in the manner prescribed by law. The proceedings to levy and collect such assessment subsequent to the filing of such petition, shall in all things, as near as may be, conform to the provisions of article nine (9) of an act of the general assembly of this state entitled "An act to provide for the incorporation of cities and villages," approved April 10, 1872, and all of the provisions of said article nine, so far as applicable, shall be in force and apply to any assessment made under this act. The clerk of such town shall perform the duties and possess the powers which are conferred upon the clerks of cities and villages under said article nine.

Provided, That no improvement or sewer shall be made or constructed under the provisions of this section except upon the petition of the owners of a majority of the land fronting on the proposed improvement or sewer.

Provided, further, That no sewer shall be constructed under this act, through any streets belonging to any incorporated city, or to connect with any sewers within any such city, unless the assent of the common council or board of public works of such city having control of the streets and sewers of such city shall be first obtained thereto.

SECTION 4. *Be it further enacted*, That the town supervisor, clerk and assessor of such town be and they are hereby designated and constituted the corporate authorities of such town, and they or a majority of them, may levy the tax or any of the assessments herein authorized, in the manner and for the purposes herein provided, except in towns or villages which may have or which shall hereafter become organized as a town or village under any law of this state, in which case the board of trustees of such town so organized as a village may levy the tax or any of the assessments herein authorized in the manner and for the purposes herein authorized.

SECTION 5. In case any sewer or sewers located as designated in the foregoing section shall be located in part in two or more towns, such commissioners shall make estimate of the cost of the portion of such sewer or sewers lying within each town separately, and shall transmit to the proper town the cost of such sewer or sewers lying and being in such town.

SECTION 6. Such sewer or sewers shall be so constructed as to permit owners of property on the line of the same to connect private drains or sewers therewith, under such rules and regulations as the board of public works or other proper authority of the city or town may prescribe, and the same shall be constructed as near as can be in conformity to any general plan of sewerage in use in such town.

SECTION 7. In case of the construction of any sewer or sewers under the provisions of this act, over or through any lands not under the control of such board of park commissioners, if the consent of the owner of the same can not be obtained, the proceedings to acquire the right of way, and for making just compensation therefor, shall be in accordance with the provisions of said article nine (9) referred to in section three (3) in this act. The petition therein provided for shall be filed in the name of the town, and the proceedings shall in all things, as near as may be, conform to the provisions of said article nine, and all of the provisions of said article, so far as applicable, shall apply to and be in force in proceedings under this act.

SECTION 8. If any assessment or assessments made by assessors appointed by the circuit court, upon the application of such board of park commissioners, shall, for any cause, fail to be collected, in whole or in part, such commissioners may, at any time within five years after the confirmation of such assessment or assessments, file a peti-

tion in the county court of their county, setting forth briefly the nature of the improvement or purpose for which such assessment or assessments were made, and the total cost of such improvement, the gross amount of such assessment or assessments, a description of the real estate, lots or parcels of land upon which such assessment or assessments remain unpaid, the amount as assessed against each piece or parcel of land so remaining unpaid, the date of confirmation of such assessment or assessments, and the name or names of the person or persons filing objections for such lots or parcels of land at the time of such confirmation, or at any other time during the proceedings had to collect such assessment or assessments, if known to such commissioners, and the names of persons who are interested in such lots or parcels of land, as purchasers or otherwise, as shown by the records of the county, or by an abstract of such records, praying the court to summon such person or persons into court to answer such petition, and to receive, stand by and abide such order as the court shall make in the premises.

Provided, That any failure to procure the names of all the persons interested in such lots shall not hinder or delay the proceedings hereby authorized against those who are made parties. Upon filing such petition the clerk shall issue a summons directed to the sheriff of the county where such person or persons, or any or either of them, shall reside or be found, which shall be served in the same manner as writs in chancery; and in case any such person or persons so named in such summons cannot be found, or reside out of this state, or shall absent himself or herself from this state, so that summons cannot be served, it shall be lawful, upon filing an affidavit of such fact, to cause notice to such person or persons to be published and served as in chancery proceedings, which notice shall be held and construed in all courts and proceedings as sufficient service upon such person or persons. The hearing of such petition and the determining of the matters therein alleged shall have and take precedence over all other cases upon the dockets of such court, and such court shall at once (unless good cause for delay be shown) proceed to hear and determine the allegations in such petition contained. The said commissioners may introduce any evidence which shall tend to establish the allegations in such petition contained.

Provided, That the original or a certified copy of the original

assessment roll, or so much thereof as refers to the special assessment sought to be recovered, shall be *prima facie* evidence of the right of such petitioners to judgment according to the prayer of such petition.

If either party shall demand that the matters in such petition shall be tried by a jury, the court shall order a jury to be empaneled as in cases at law, and such jury, under the direction of the court, or in case neither party shall demand a jury, the court shall hear such proofs and witnesses as the respective parties may offer, and shall determine all questions of fact which shall be involved in the proceedings, and may, upon such trial, ascertain and find the sum or amount which each piece or parcel of land upon which such assessment or assessments remain unpaid ought fairly and equitably to be assessed, having regard to the proportions of special benefits resulting to each separate piece or parcel of land benefited, after deducting the payments, if any, which shall have been made upon the several lots and parcels of land.

Provided, That in no assessment or proceeding under any of the provisions of this act shall the amount of any assessment upon any lot or piece of land exceed the amount of special benefits resulting to each piece or lot of land. Upon such finding the court shall enter an order or decree declaring the amount so found to be a valid lien, and assessments upon such lots or parcels of land; such order or decree shall be *prima facie* evidence of the regularity of all previous proceedings necessary to the validity thereof, and all matters therein recited as having been heard and adjudged by said court. It shall be the duty of the clerk of such court to make a copy of such order or decree, properly certified, and file the same in the office of the county clerk of such county; and it shall be the duty of the county clerk of such county, in the next warrant thereafter issued for the collection of state and county taxes in the town in which the property against which such decree has been entered, or any part thereof, is situated, to set down in a column for that purpose provided, opposite the several pieces and parcels of real estate included in such order or decree, the amount assessed upon the same by such order or decree; and it shall thereupon be the duty of the collectors of taxes to collect said assessments, and enforce the payment thereof in the same manner and with all the rights, power and

authority that they have to collect state and county taxes; and all the provisions of law in respect to the collection of state and county taxes, and proceedings to enforce the same which are now in force, or which may be hereafter enacted, so far as applicable, shall apply to such assessments. In proceedings under this section, either party on leave of the court may amend any of the proceedings upon such terms as the court shall deem equitable; and it shall be lawful for such commissioners to include in such petition all of the lots, pieces or parcels of land included in any assessment or assessments which are delinquent, whether such lots are owned by one person or several persons, or such commissioners may proceed by separate petition against each owner or against each separate lot or tract of land; and the property may be described as the same was described in the original assessment, or by any subdivision which may have been made of the same subsequent to the making of such assessment. The proceedings herein authorized for the collection of delinquent assessments shall be held and construed as additional to, and not in limitation of, any proceedings now authorized; and such commissioners may proceed under any laws in force for the collection of such delinquent assessments; and lands shall be held and considered as delinquent within the meaning of this act, which have not actually paid the amount of the assessment or assessments made on such lands, it being the intention hereby to authorize proceedings to ascertain and collect the amount or proportions which any lot, tract or portion of land should fairly contribute or pay toward the actual cost of any improvement, or purpose for which any such assessment or assessments shall have been or shall be made, and to this end the county court of the proper county is hereby vested with power and authority to make all needful rules and orders in any proceeding under this act, not herein provided, for the accomplishment of the purposes aforesaid.

SECTION 9. It shall be the duty of the clerk of the county court to which any lots, pieces or parcels of land shall be returned as delinquent for any assessment referred to in this act, after any sale shall have been made and the warrant for such sale shall have been returned, to make a complete list of the lots, pieces or parcels of land against which any such assessment shall have been set aside, or the collection of which shall have been suspended by appeal or other-

wise, and shall certify the same under the seal of the court, and deliver the same to the recorder of deeds of his county, and the recorder of the county shall record the same, which record shall be held and construed as sufficient notice to all purchasers and encumbrancers of the existence of such assessment for the full period of five years from the confirmation of the original assessment.

SECTION 10. In all cases in which such board of park commissioners shall have contracted with owners of property taken or purchased for any park or boulevard for annual payments, and the tax or assessment levied to meet such payments shall not be collected or paid in time to meet such payments as they become due, it shall be lawful for such board of park commissioners to negotiate and procure an extension of the time of payments of such contracts for such period as may be agreed upon by the parties, and may contract to pay interest from the time so extended, at a rate not exceeding eight per cent. per annum, payable annually, and may use and apply any funds under their control to pay such obligations when due, and the interest as the same accrues; except money raised by special assessment to build or construct sewers or improve boulevards.

SECTION 11. All improvements made under the provisions of this act shall be done under the immediate superintendence and control of such board of park commissioners upon contracts to be made with them, and all moneys collected under any proceedings authorized by this act, shall be paid to such commissioners by the person or officer collecting the same, on the joint receipt of the treasurer and president of such board of park commissioners, or such other officers as they may designate; except in towns or villages organized as towns or villages, in which case the money shall be paid by the treasurer of such town or village to the contractor or person entitled to receive the same, on the order of such park commissioners.

SECTION 12. *Be it further enacted,* That in cases where, by virtue of any act or acts heretofore passed, public parks or boulevards have been designated or established in two or more towns contiguous to each other, and where the commissioners, authorized by such act or acts to locate such parks or boulevards, shall desire to connect the same by a boulevard or pleasure-way, so as to form a contiguous improvement, or shall desire to connect such park with other portions

of the park district in which such park is located, by a boulevard or pleasure-way, it shall and may be lawful for such commissioners to select and designate the line of such boulevard or pleasure-way, and to acquire title to the lands which may be necessary to make such connection by purchase or otherwise, and in case such commissioners cannot agree with the owner or owners, lessee or occupant of any of the real estate so selected, they may proceed to procure the condemnation of the same in such manner as is now or may be prescribed by any general law for the condemnation of lands for public use; and the cost and expense of acquiring title to such land shall be levied upon and collected by special assessment upon the property deemed specially benefited by the location of such boulevard or pleasure-way, in the same manner as the costs of other lands for parks and boulevards is assessed under the several acts creating such boards; and such boulevards or pleasure-way shall be under the control and management of such park commissioners, the same as other public grounds by them established.

SECTION 13. The said park commissioners shall annually, on or before the 15th day of March of each year, make a report to the board of auditors of their respective towns, and to the legislative body of the town or city in which said parks are located, and shall particularly set forth, in such report, the amount of money by them received from all sources, during the preceding year, and how the same has been expended.

SECTION 14. No member of such board of park commissioners shall be directly or indirectly interested in the purchase or sale of any park lands, or in any contract for the improvement of any park, or shall receive any compensation for personal services, except and only such as provided by the act creating such boards of park commissioners; and for a violation of this section, the commissioner offending shall forfeit his office, and the vacancy shall be filled in same manner as other vacancies.

SECTION 15. *Be it further enacted*, that an act entitled "An act to enable certain corporate authorities of towns to levy a tax to improve public parks and boulevards, and to provide for the extension of boulevards and regulating the duties of park commissioners, and limiting the period within which they may be paid salaries," approved June 16, 1871, be and the same is hereby repealed: *Pro-*

vided, that any tax levied under such act shall not be impaired by such repeal, but the same shall be and remain in full force and effect as to such tax.

S. M. CULLOM,

Speaker of the House of Representatives.

JOHN EARLY,

President of the Senate.

Approved May 2, 1873.

JOHN L. BEVERIDGE,

Governor.

UNITED STATES OF AMERICA, }
STATE OF ILLINOIS, } ss.

I, George H. Harlow, Secretary of the State of Illinois, do hereby certify that the foregoing is a true copy of an enrolled law entitled "An act in regard to the completion, improvement and management of public parks and boulevards, and to provide a more efficient remedy for the collection of delinquent assessments," approved May 2, 1873, and now on file in this office.

In witness whereof I hereto set my hand and affix
[SEAL.] the great seal of state, at the city of Springfield,
this 15th day of May, A. D. 1873.

GEO. H. HARLOW,

Secretary of State.

LIBRARY OF CONGRESS



0 000 883 082 4