

charter of said city governing the initiation of local improvements in such city.

SEC. 3. An emergency exists, and this act shall take effect immediately.

Passed the House March 6, 1897.

Passed the Senate March 11, 1897.

Approved by the Governor March 17, 1897.

CHAPTER CXI.

[H. B. No. 503.]

RELATING TO ASSESSMENTS FOR LOCAL IMPROVEMENTS.

AN ACT in relation to assessments for local improvements, providing for the enforcement thereof and the refunding of warrants issued therefor.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Whenever any suit or action, or suits or actions, have been commenced by any city in this state, to foreclose or enforce or recover upon any assessment or assessments made or levied or attempted to have been made or levied for any local improvement within such city, the city may petition the superior court of the county where such suits or actions are pending for an order consolidating all actions that have been instituted for the enforcement of the special assessment levied in the particular district, and for a summary hearing of the consolidated proceeding. A copy of the petition shall be served upon the parties who have appeared, or their attorneys.

City may petition for consolidation of actions of foreclosure.

SEC. 2. Upon the hearing of such petition the court shall make an order consolidating all suits or actions theretofore instituted for the foreclosure or enforcement of such assessments and shall further order that in all such suits where summons has not issued, or, if issued, has not been served, that summons forthwith issue and service thereof be made immediately in the manner provided by law, personally or by publication, and no failure to issue or serve

Action to consolidate suits.

summons in any suit or action, where the complaint has heretofore been filed in the district court of the former territory or in the superior court of this state for the proper county, shall create any valid objection to the issuance and service of summons as hereinbefore provided, nor shall any such suit or action abate or be dismissed because of such failure.

Default.

SEC. 3. When summons shall have been issued and served as above provided, and any party or parties fail to appear on or before the return day, the court shall enter the default of all parties so failing to appear, and such default shall be final and conclusive as to all subsequent proceedings had under the provisions of this act: *Provided*, That the summons issued and served shall contain, in addition to the matters now provided by law, a further recital in substance to the effect that all actions for the enforcement of the particular assessment will be consolidated into one proceeding and a decree or judgment rendered establishing the assessment as a first and paramount lien on the property described in the complaint, together with interest, penalties and costs, and the whole thereof will bear interest at eight per cent. per annum and be payable in five equal annual installments, and if any installment remains unpaid for six months after it becomes due, the whole lien and all the installments shall mature and become immediately collectible and bear twelve per cent. interest per annum from maturity.

Judgment.

Order.

SEC. 4. The court shall thereupon issue an order setting forth that all actions for the enforcement of the assessment in the particular district have been consolidated and directing all persons who have appeared to show cause on or before a day and hour in said order named, which shall not be less than five nor more than ten days from the date thereof, why the assessment against their property should not be established and declared a valid first lien thereon, together with all accrued interest, penalties and costs, and a decree entered therefor making such charge payable in five annual installments, with eight per cent. interest and twelve per cent. interest upon default in such payments.

Service.

SEC. 5. A copy of said order shall be served on all

parties who have appeared or upon their attorneys at least five days before the return day. On or before the return day of said order the parties served shall file an answer thereto setting forth in concise language and separately each objection they may desire to urge to the enforcement of the assessment in whole or in part, and no objection not so specified shall be urged or heard.

SEC. 6. At the day and hour named in the aforesaid order the court shall forthwith proceed to hear and determine all matters both of law and of fact arising on the objections filed by the parties defendant. All motions and demurrers or other dilatory pleas shall be summarily heard and determined and the consolidated proceeding disposed of on the merits. The hearing thereof shall have precedence over all other civil proceedings.

SEC. 7. The assessment roll, or an authenticated copy thereof, shall be *prima facie* evidence of the regularity and legality of the assessment and of all proceedings connected therewith, and the burden of proof shall be upon the defendants.

SEC. 8. In any such consolidated proceeding if it shall appear to the court on the trial thereof that the local improvement has been made and the property of the district has received the benefits thereof, the court shall by decree establish the lien of the assessment, against each lot or parcel of land assessed, to the extent of the proportion of the reasonable value of such improvement justly chargeable to such premises, notwithstanding any defect, informality or irregularity in the proceedings. But in such case if the defects, informalities or irregularities in the assessment or the improvement are prejudicial to the party objecting on account thereof, the court in its discretion may disallow any part or the whole of the costs of the city, or the accrued interest or any part thereof or the penalties or costs, interest and penalties, and may also reduce the amount of the charge against the premises.

SEC. 9. No defects, informalities or irregularities either in the assessment or the levy thereof, or in the inception of the improvement or subsequent procedure, or in the improvement itself, shall be fatal to the enforcement of the

Objections,
if any.

Assessment
roll as
evidence.

Judgment
lien.

No defect shall
be fatal to
enforcement
of lien.

assessment and establishment of a lien therefor, except in case of the entire absence of such notice to the property owner, by publication or otherwise, as may have been required by law, of the assessment or of the proposed improvement at the time such assessment was made or improvement ordered.

SEC. 10. Upon the trial of such consolidated proceeding, if the assessment be sustained in whole or in part, the court shall make a decree charging against each lot or parcel of land within the particular district, the amount assessed against it, including interest, penalties and costs, or such amount of the assessment or interest, penalty or costs as the court may deem just, and shall establish the amount so charged by decree as a first and paramount lien against the property.

Amount lien shall bear interest.

SEC. 11. The amount of the assessment so established as a lien against each particular lot or parcel of land in the district shall bear interest from the date of the decree at the rate of eight per cent. per annum, and shall be payable in five equal annual installments, the first due one year from the date of the decree, together with all accrued interest on the whole amount of the lien, and so on each year until fully paid and discharged.

Discharge of lien.

SEC. 12. At any time within three months from the date of the decree any property owner may pay off and discharge the entire amount of the lien against his property by the payment of the face thereof with the interest accrued to the date of payment; but after the expiration of three months if any person desires to pay and discharge the entire lien, he shall pay in addition to the face of the lien all interest accruing thereon up to the time for the payment of the next annual installment.

Default on one installment, whole assessment due.

SEC. 13. If any installment is not paid when due it shall bear interest from the time it becomes payable at the rate of twelve per cent. per annum, and if it shall remain unpaid for more than six months after it matures, then the entire amount of the lien shall mature and become payable, and from the time of its maturity shall bear interest at the rate of twelve per cent. per annum.

SEC. 14. At any time after the expiration of six months

as provided in the preceding section of this act, the city or any holder of any of the warrants provided for herein, may by motion apply to the court for an order of sale against the property on which the lien remains unpaid. Such order of sale shall issue to the sheriff of the county and the property therein described shall be sold in the same manner as other real property is sold under special execution and all provisions of law applicable to sales of real property upon execution shall be applicable to such sale, except as to stay of execution, appraisement, and that the period of redemption allowed shall be one year from the date of sale, after the expiration of which time a deed shall issue from the sheriff or his successor to the purchaser or assignee or representative of the purchaser and the absolute fee simple title to the property shall pass to the purchaser at such sale, or to his assigns, as many lots or parcels of land may be included in one order of sale as are delinquent.

Warrant holder may apply for order of sale.

SEC. 15. If, after the expiration of six months and before an order of sale shall have been issued, the delinquent installment is paid together with all accrued interest at the rate of twelve per cent. on the entire lien up to the date of payment, the increased interest and right of sale shall cease until another default in payment be made.

No sale if lien discharged.

SEC. 16. Either the city, any warrant holder interested in the fund or other person may become a purchaser at any sale made under the provisions of this act, but if the city become a purchaser, it shall hold the title to the property as a trustee for the warrant holders and shall not be chargeable with the amount bid therefor.

City or warrant holder may buy.

SEC. 17. The city shall have power through its mayor and clerk to sell, assign, transfer or otherwise dispose of by deed of quit claim any property purchased at such sale, and the proceeds thereof shall be placed in the fund of the particular district, and be in lieu of the property, and absolute title to the property shall vest in the assignee or vendee of the city when the period of redemption shall have expired.

City may sell property bought at sale.

SEC. 18. The failure to bring into the proceeding all of the owners of property within the district subject to assessment shall in no wise affect the power of the court to

proceed as to the parties brought in. In such case a subsequent petition may be filed and like proceedings had thereon as hereinbefore provided.

SEC. 19. If a portion of the property within the district be from any cause whatsoever released or discharged from the assessment, the court shall nevertheless proceed to establish the lien against the property not discharged.

Petition to set aside decree.

SEC. 20. If in the enforcement of any assessment for a local improvement, decrees of foreclosure have been entered or in cases where sales have been made under such decrees of the property assessed, and it has been bought in by the city, upon application made to the court by the city, an order shall be issued by the court directing the several defendants to show cause why the decrees and sales (if sales have been made in the several actions) should not be set aside, the several suits consolidated, and a new decree entered charging said property with the assessment and establishing a lien, in the same manner and form as hereinbefore provided. A copy of said order to show cause shall be served upon the parties interested, personally or by publication, as summons is served and shall be returnable not less than five nor more than ten days from its date.

Procedure.

SEC. 21. Upon the return day at the hour therein named the court shall proceed summarily to hear and determine the matter as hereinbefore specified in section 6 of this act: *Provided*, That no objections or defenses to the assessment or any part thereof, shall be urged or heard which were or could have been adjudicated in the original proceeding.

SEC. 22. Upon the hearing the court shall enter a decree setting aside the former decrees and sales, if sales have been made, and establishing the charge as a first and paramount lien upon the several lots and parcels of land in the same manner and form as hereinbefore provided for.

Notice published.

SEC. 23. Before making application for consolidation and the establishment of liens by decree as hereinbefore provided, the city shall cause a notice to be published in the official newspaper of the city, directed to the holders of the warrants issued against the fund of the particular district which it is desired to refund, that the city is about to refund the warrants of that district into six per cent.

warrants, to be issued under the provisions of this act, to the amount of the outstanding and unpaid assessments in the district; that such new warrants will be issued of such denominations as may be determined by the mayor and clerk of the city, not exceeding fifty dollars each, numbered from one upwards, and will be called in the order of their number; the numbers of the new warrants issued to the several holders of old warrants will be relatively the same as the surrendered warrants, and shall be issued in proportion to the amount of their holdings. Such notice shall further specify that all outstanding warrants against the fund must be deposited with the city treasurer within sixty days from the first publication thereof. The notice shall be published for four weeks in each regular issue of the official paper of the city.

SEC. 24. If at the expiration of sixty days all the war-
Redemption warrants.

rants have not been deposited for exchange as provided in the notice, the city may at its option pay into the fund for the redemption of the undeposited warrants the amount thereof, principal and interest, and immediately call the same for payment: *Provided*, The face of the undeposited warrants does not exceed ten per cent. of the face of the warrants then outstanding against the particular fund. If
Returned in certain cases.

ninety per cent. of the outstanding warrants are not deposited for refunding within sixty days, then the warrants which may have been deposited shall be returned to the owners thereof, on demand: *Provided*, That if before such demand be made a sufficient number of the outstanding warrants be further deposited so as to make the amount required by this act, the city may proceed in the same manner as if the proper amount had been deposited within sixty days. If ninety per cent. or more of the warrants are deposited as before provided and funds supplied by the city for the redemption of the unsurrendered warrants, then the city shall proceed as hereinbefore provided, for the establishment of the lien of the assessment, and when the decree therefor has been entered, the mayor and clerk
New warrants against special fund, when.

or controller are hereby authorized to issue warrants against the special fund to the amount of the total charge established by the decree as a lien against the property

within the district, which warrants shall be payable only out of the special fund, and the holder of any warrant or coupon for interest issued under the authority of this act shall have no claim therefor against the city by which the same is issued, in any event, except from the collections of the charge established as a lien on the property within the particular district, but his remedy in case of non-payment shall be confined exclusively to the enforcement of the decree. Upon the issuance of such new warrants the surrendered warrants shall be canceled.

Not issued in case of appeal.

SEC. 25. In case of appeal from the decree establishing the lien, new warrants shall not be issued until the determination thereof.

City shall receive in certain cases.

SEC. 26. In cases where the city may supply funds for the redemption of undeposited warrants it shall be entitled to receive warrants of the new issue to the amount of the funds so supplied upon the same conditions as the holders of surrendered warrants.

SEC. 27. The warrants shall be in form substantially as follows:

Form of refunding warrant.

No., Washington, day of , 189..... \$.....

The city of will pay to the order of the sum of dollars, with six per cent. interest, payable annually out of the local improvement fund of street originally provided for by ordinance No. The lien of the assessment for supplying said fund has been established by decree of the superior court of county, dated day , 189.....

This warrant is a refunding warrant issued under the provisions of an act of the legislature of the State of Washington entitled "An act in relation to assessments for local improvements, providing for the enforcement thereof and the refunding of warrants issued therefor, and declaring an emergency," approved [March 17, 1897].

Each of said warrants shall have attached thereto five interest coupons for the amount of each year's interest upon the face of the warrant and shall recite that it is payable only out of the special fund described in the warrant and is for interest on a warrant drawn against such fund.

Application of special fund.

SEC. 28. All money paid into the special fund shall first be applied to the payment of the interest accruing on the warrants, and at the end of each year any money remaining in the fund shall be applied to the payment of the warrants in the order of their number, which shall be called

by the city treasurer through a notice published in the official newspaper of the city in each issue thereof for the period of one week, and all warrants called shall cease to bear interest from the date of the last day of the call, but no interest shall be paid until the coupon therefor is surrendered and canceled.

SEC. 29. This act shall apply to all assessments for local improvements and to the warrants issued therefor, whether original assessments or reassessments and whether collectible by suit or by summary sale, as other city taxes are collected. And in any case where it is desired to refund the warrants against a special fund the assessment for which is collectible as other city taxes are collected, the city may proceed as hereinbefore provided by petition to the proper superior court for a decree establishing the lien of the assessment, and upon such application an order shall issue to the several parties whose property is charged with the assessment, in substantially the same form as hereinbefore provided, to show cause why a decree should not be entered. Such order shall be made returnable as hereinbefore provided, and all subsequent proceedings shall be in conformity with this act so far as they are applicable; and like procedure shall be had with reference to the warrant holders as in this act hereinbefore provided.

This act applies to all assessments for local improvements.

SEC. 30. Nothing in this act shall be construed to repeal, change or modify any existing act, charter or ordinance affecting the enforcement of assessments for local improvements or the issuance of warrants therefor, but shall be construed as an additional and concurrent procedure or remedy.

This act not repealing, but concurrent and additional.

SEC. 31. An emergency is hereby declared to exist, and this act shall take effect immediately.

Passed the House March 8, 1897.

Passed the Senate March 11, 1897.

Approved by the Governor March 17, 1897.