

[That the governor of this state for the time being may appoint and commission such and so many notaries public as to him shall seem necessary, who shall hold their respective offices for the term of five years, but shall be removed from office at the pleasure of the governor.]

Notaries appointed by governor.

18. SEC. 2. That the power of appointment hereby given the governor shall not be limited to the appointment of persons of the male sex, but such appointments may be of persons of either sex; and all words in said act, or any supplement thereto, referring to said notaries public as of the masculine gender, shall be understood to include, and shall be applied to females as well as males.

Women may be appointed.

19. SEC. 3. That every person applying for the appointment of notary public shall inclose with his or her application the sum of five dollars, which sum, if a commission shall be granted, shall be paid over by the governor to the treasurer, and if such commission shall not be granted, then the same shall be returned to the person making such application.

Fee must accompany application for appointment.

20. SEC. 4. That the term of office of every notary public appointed before the passage of this act shall expire July fourth, one thousand nine hundred.

When term shall expire.

21. SEC. 5. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act abolishing days of grace.

Approved February 12, 1895. P. L. 1895, p. 66.

22. SEC. 1. That on all notes, drafts, checks, acceptances, bills of exchange, bonds or other evidences of indebtedness made, drawn or accepted by any person or corporation after this act shall take effect, and in which there is no expressed stipulation to the contrary, no grace, according to the custom of merchants, shall be allowed, but the same shall be due and payable, as therein expressed, without grace.

Days of grace abolished.

23. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Repealer.

Public Parks.

1. Amended by sections 4 and 13.
2. Municipalities may issue bonds for purchase of parks.
3. Repealer.
4. Amended by section 13.
5. Parks, how paid for.
6. Cities may purchase additional lands for parks.
7. Lands, how paid for.
8. Second-class cities may create park commissions.
9. Amended by section 12.
10. Park commission to expend "park fund."
11. Repealer.
12. Common council to levy tax for park purposes.
13. Common council, &c., may by ordinance purchase lands for park.
14. How lands paid for.
15. Repealer.
16. Cities may use certain city lands as public park.
17. May expend money for improvement of same.
18. May appoint keepers thereof and adopt rules, &c.
19. Cities may purchase unimproved meadow land for park purposes.
20. Bonds may be issued therefor.
21. Payment of bonds to be provided for by taxation.
22. Repealer.
23. Proceedings to condemn lands by cities for park purposes.
24. Proceedings in case of appeal.
25. Second-class cities may acquire lands beyond city limits for park purposes.
26. Such parks, how managed.
27. Such parks, how improved.
28. Such parks not taxable.
29. Repealer.
30. Towns and boroughs may acquire lands for public parks.
31. Resolution designating lands to be purchased to be submitted to voters. Provisions concerning election.
32. Governing body may issue bonds if election is in favor of the resolution.
33. Towns and boroughs may lease any part of the property.
34. Provisions for payment of bonds and appointment of sinking fund commissioners.
35. Park commissions to be appointed in second-class cities. Their qualifications and terms.
36. Commissioners to elect president annually.
37. Park commissioners to have entire control of parks.
38. May appoint and employ clerk, officers, &c., and fix their compensation.
39. Powers of present commissioners.
40. Certain lands laid out as parks by the legislature vacated.
41. Parks in towns, villages and townships may be enlarged.
42. Bonds or notes may be issued.
43. May purchase land at private sale.
44. Proceedings to condemn lands.
45. Proceedings in case of appeal.
46. Appointment of county park commissioners. Their terms, &c.
47. May employ assistants, &c.
48. Appointment of board of county park commissioners. Board may appoint officers, &c.
49. Board may locate parks, purchase lands, &c.
50. Proceedings before purchase or condemnation.

51. Proceedings to condemn lands.
52. Proceedings in cases of appeal.
53. Board may establish, change or alter grade of highways, boulevards, &c.
54. Notice of opening or improving boulevards, &c., to be advertised. Appointment of commissioners to condemn lands for such boulevards, &c. Appointment of commissioners to assess benefits. Proceedings by commissioners.
55. Benefits may be deducted from damages awarded.
56. Benefits collected by suit.
57. Benefits may be collected by suit or sale of lands.
58. Assessments received to be set apart for payment of bonds.
59. Assessments to be a lien on lands. When suit may be brought. Proceedings concerning sale and redemption of lands.
60. Unsold lands shall be struck off to the board.
61. Chosen freeholders may issue bonds to meet expenses. Sinking fund to be established.
62. Sinking fund commissioners to have custody of funds. Provision concerning payment of bonds.
63. Lands held for parks to be forever kept open as such. Railroads forbidden therein.
64. Board to make and enforce rules and regulations.
65. Municipalities may transfer care of parks to commissioners appointed under this act.
66. When powers of other county commissioners to cease.
67. Acceptance or rejection of act to be submitted to popular vote. Provisions concerning election.
68. When act to take effect.
69. Trustees of lands for public park purposes may become incorporated.

**An act to provide for the purchase, construction and maintenance of public parks by the cities and other municipalities in this state.**

P. L. 1883, p. 102.

Municipalities may issue bonds for purchase of parks.

1. [Amended and supplied by Secs. 4 and 13, *post.*]

Approved March 14, 1883.

2. That the mayor and common council, or other municipal authority of the cities or municipalities of this state, by like vote, shall have power to issue bonds of such city or municipality for the purchase, construction and maintenance of said public parks, and carrying this act into effect, to an amount not exceeding the proportion of five thousand dollars to each one thousand of inhabitants of such city or municipality; which bonds shall not have more than twenty-five years nor less than fifteen years to run, and shall bear interest at a rate not to exceed five per centum per annum, and shall pledge the faith, credit and property of said city or other municipality for the payment of the principal and the interest thereon, and shall provide for the redemption of said bonds by taxation.

Repealer.

3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

**Amendatory act.**

P. L. 1885, p. 103.

Parks, how paid for.

4. SEC. 1. [This section, amending Sec. 1, *ante*, is amended by Sec. 13, *post.*]

Approved March 18, 1885.

5. SEC. 2. That such lands may be paid for as provided in the second section of said act.

**Supplement.**

P. L. 1889, p. 395.

Cities may purchase additional lands for parks.

6. SEC. 1. That where cities have purchased lands for public parks, and in order to complete and to give a better outline or boundary line for said parks, it is necessary to purchase more lands, that said cities, by a vote of three-fourths of the members of the common council or board of aldermen of such city, may purchase said lands.

Approved May 7, 1889.

7. SEC. 2. That such lands may be paid for as provided in the second section of said act.

Lands, how paid for.

8. SEC. 3. That cities of the second class owning parks may, by a vote of three-fourths of the members of the common council or board of aldermen of such city, create a park commission, for the purpose of managing said parks.

Cities of the second class may create park commissions.

**Supplement.**

P. L. 1889, p. 396.

Park commission to expend "park fund."

9. SEC. 1. [Amended by Sec. 12, *post.*]

Approved May 7, 1889.

10. SEC. 2. That in any such city where a park commission now exists, or may hereafter be appointed to take charge of the improvement and maintenance of said parks, that the said "the park fund" shall be appropriated by said common council to the credit of said park commission, to be used by said park commission in maintaining and improving said park or parks; that where no such park commission exists, such fund shall be so expended by said common council.

Repealer.

11. SEC. 3. That all acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

An act to amend an act entitled "A supplement to an act entitled 'An act to provide for the purchase, construction and maintenance of public parks by the cities and other municipalities in this state,' approved March fourteenth, one thousand eight hundred and eighty-three," which supplement was approved May seventh, one thousand eight hundred and eighty-nine.

Approved March 10, 1893. P. L. 1893, p. 204.

12. SEC. 1. That section one, of which this is an amendment [see Sec. 9, *ante*], shall be amended to read as follows :

[That in all cities of this state which have heretofore or may hereafter purchase a park or parks under the act to which this is a supplement, the common council of such city shall levy a tax of three-fifths of one mill on each dollar on all the taxable property in such city, such tax to be levied and collected in like manner as and with the other general taxes of said city, and to be known as "the park fund," and shall be used for the construction, improvement and maintenance of such parks.]

Common council to levy tax for park purposes.

An act amending an act to provide for the purchase, construction and maintenance of public parks by the cities and other municipalities in this state, approved March fourteenth, one thousand eight hundred and eighty-three.

Approved March 17, 1893. P. L. 1893, p. 397.

13. SEC. 1. That the first section of the act to which this is amendatory [see Secs. 1 and 4, *ante*] be and the same is hereby further amended to read as follows :

[That in any city or other municipality in this state, the common council, board of aldermen, board of trustees, or other board or body having control of the streets, highways and public parks and places therein, may by ordinance passed by a two-thirds vote of the members of such board or body, purchase, or condemn if unable to purchase, one or more tracts of land lying wholly or partly within or without the limits of said city or other municipality, for the use of the inhabitants of such city or municipality as a public park or parks, and may dedicate the same to such use, and may lay out, embellish, and maintain the same, and from time to time pass ordinances regulating and controlling the same, and providing for the proper and convenient use thereof by the inhabitants aforesaid.]

Common council, &c., may, by ordinance, purchase lands for public park.

14. SEC. 2. That such lands may be paid for as provided in the second section of said act, and in case of condemnation, the mode and method of procedure shall be that provided in an act entitled "An act to empower cities to acquire lands for public parks by condemnation," approved May twelfth, one thousand eight hundred and ninety. [See Secs. 23 and 24, *post.*]

How lands paid for.

15. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall be deemed a public act and shall take effect immediately.

Repealer.

An act concerning cities.

Passed June 1, 1886. P. L. 1886, p. 393.

16. SEC. 1. That in any city of this state in which there is land owned by such city and not required for the purpose for which it was purchased, the board of aldermen or common council or other governing body of any such city is hereby authorized, by an affirmative vote of four-fifths of all the members of such board, council or other governing body, with the concurrence of the board having charge of the finances of such city and the approval of the mayor of such city, to assume control of such land, and to prepare and allow the same to be used by the public as a park or place of recreation.

Cities may use certain city lands as a public park.

17. SEC. 2. That the board of aldermen, common council or other governing body of any such city may expend, for the purpose of improving such land and rendering the same suitable for the purposes of a park or place of

May expend certain amount for improvement and maintenance of park.

recreation, such sum of money, not exceeding the sum of ten thousand dollars, as shall be appropriated for such purpose, and may expend, for the purpose of maintaining and improving such park, such sum of money, not exceeding one thousand dollars each year, as shall be appropriated therefor.

May appoint keepers and adopt rules and regulations, &c. Proviso.

**18. SEC. 3.** That the board of aldermen, common council or other governing body of any such city shall have power to adopt such rules and regulations, and appoint one or more keepers for the care and safety of such park, as may be deemed necessary for the purpose ; *provided*, that an appropriation shall be made for the purpose.

**An act to enable cities to purchase lands for public parks or squares, and improve the same, and to issue bonds for the cost of such purchase and improvement.**

P. L. 1888, p. 33.

Cities may purchase unimproved meadow land for park purposes.

Approved February 14, 1888.

**19. SEC. 1.** That it shall and may be lawful for any city in this state in which any unimproved meadow land shall lie, its mayor and council or board of aldermen, by ordinance duly approved by the mayor, to purchase a plot of land in such city not to exceed five hundred lineal feet in depth by three hundred lineal feet in width ; *provided*, that the cost of such purchase shall not exceed twelve thousand dollars, and to lay out and maintain the said plot for use as a public square or park.

Bonds may be issued therefor.

**20. SEC. 2.** That for the purpose of raising the said sum of twelve thousand dollars the said the mayor and council or board of aldermen of said city shall have power to issue bonds under the corporate seal of said city and the signature of said mayor, in such sums and payable at such times as said mayor and council or board of aldermen may deem proper, bearing interest not to exceed the legal rate, payable semi-annually with coupons attached and pledging the credit and property of said city for the payment of the same, which bonds may be sold or assigned by said mayor and council or board of aldermen ; *provided*, that no bonds shall be sold for less than par value, and that said bonds shall be redeemable at a period not less than twenty years.

Payment of bonds to be provided for by taxation.

**21. SEC. 3.** That for the purpose of providing for the said bonds and interest the mayor and council or board of aldermen shall have power and authority to provide by taxation a sum of money to pay and discharge the principal and interest of said bonds whenever the same shall become due and payable ; *provided*, that not less than two thousand dollars of the principal of said bonds shall be made redeemable in any one year.

Proviso.

Repealer.

**22. SEC. 4.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act be deemed a public act and take effect immediately.

**An act to empower cities to acquire land for public parks by condemnation.**

P. L. 1890, p. 296.

Proceedings to condemn lands by cities for park purposes.

Approved May 12, 1890.

**23. SEC. 1.** That when the council, or other governing body, of any city of this state shall deem it proper to acquire certain land for a public park in such city, and the said city or its agents cannot agree with the owner or owners and tenant or tenants, or other legal occupant or occupants of such land, as to the price and terms of the purchase thereof, or when, by the legal incapacity or absence of such owner or owners, and tenant or tenants, or other legal occupant or occupants, no agreement can be made for the purchase thereof, a description in writing of the land so desired, with the name or names of the owner or owners, and tenant or tenants, or other legal occupant or occupants, if known, and their residences, if the same can be ascertained by the said city or its agents, shall be presented to one of the justices of the supreme court of this state, who thereupon shall cause such city to give notice thereof to the persons interested as owners, tenants or other legal occupants, if known and in this state, or if unknown or cannot

be found, or if out of this state, to make publication thereof as he shall direct, for any term not less than ten days, and to assign a particular time and place for the appointment of commissioners, as hereinafter provided; at which time, upon satisfactory evidence to him of the service or publication of such notice, he shall appoint, under his hand, three impartial and judicious freeholders, residents in such city, to examine and appraise the said land and to assess the fair market value thereof, upon such notice to be given to the persons interested as owners, tenants or other legal occupants as shall be directed by the justice making such appointment, not less than ten days; and it shall be the duty of the said commissioners (having first taken and subscribed an oath or affirmation, before some person duly authorized to administer the same, faithfully and impartially to examine the matter in question and to make a true report and appraisement as aforesaid, in writing, according to the best of their skill and understanding) to meet at the time and place appointed, and to proceed to view and examine the said land and to make a just and equitable estimate and appraisement of the fair market value of the same as aforesaid, to be paid by the city; which report shall be made under the hands of the said commissioners, or of any two of them, and within fifteen days thereafter, together with the description of the land and the appointment and oaths or affirmations aforesaid, shall be filed in the clerk's office of the county within which such city and land are situated, to remain of record therein; and thereupon, and on payment, or tender of payment, of the amount of the estimate or appraisement so made by the said commissioners of the value of the said land to the party or parties entitled thereto, as owners, tenants or other legal occupants, the said city is hereby empowered to enter upon and take possession of the said land, and all title thereto shall, upon such payment or tender, pass from the said owners, tenants or other legal occupants to the said city, which shall thereafter hold the land by the same right and title which the said owners, tenants or other legal occupants held it; and in case of a dispute between any owner or tenants or other legal occupants as to their respective rights or shares in and to the sum so assessed or ascertained under this act, then the said city is hereby authorized to pay the sum assessed for the said land to the clerk of the county in which said city is situated, to be paid out and distributed between or among the parties entitled to the same by the order of the circuit court of said county upon the application of any one or more of them on due notice to the others; and the said justice shall, upon the application of either party, or on reasonable notice to the others, tax and allow such costs, fees and expenses to the commissioners and other persons performing any legal duty in the premises as he shall think equitable and right, which shall be paid by the said city; and if any or all of the said owners, tenants or other legal occupants shall be absent from this state, or under any legal incapacity that disqualifies them from receiving legal payment of the money awarded him, her or them, then it shall be the duty of the city to pay the amount awarded to such person or persons to the clerk of the county in which such city and lands are situated; and it shall be the duty of the said clerk to receive the same, to be paid to the parties entitled thereto by the order of the judge of the circuit court of the said county, upon his, her or their application for the same, and every and all of such payments to the clerk, as to the city, shall be equivalent to payment to the parties entitled thereto, and shall operate to transfer the title to said lands to said city as if made to the said parties; *provided, always,* that should the city or the owner or owners, tenant or tenants, or other legal occupant or occupants of the land feel aggrieved by the report and award of the said commissioners, he, she or they may appeal from the said appraisement and award in respect to his, her or their interest therein to the next circuit court in the county wherein the said city and land are situated.

Appointment of  
commissioners.

Commissioners  
to make report.

Justice to tax  
and allow fees,  
costs and  
expenses.

Proviso.

24. SEC. 2. That every appeal from the appraisement and award of the commissioners shall be made in the form of a petition to the said court, and notice thereof shall be given to the other parties, within fifteen days after

Proceedings in  
case of appeal.

Market value of land to be assessed.

Court to enter judgment for amount and how enforced.

the filing of the commissioners' report and award, which proceeding shall vest in the circuit court full authority, power and jurisdiction to hear and determine the question of the fair market value of the land, and thereupon the said court shall direct a proper issue to be framed between the parties for the trial of the said question, and order a jury of twelve men to be struck for the trial of the same and a view of the premises to be had by them; and the said issue shall be tried upon the like notice and in the same manner as other issues of fact in said court are tried; and it shall be the duty of the said jury to assess the fair market value of the land in question; and the party or parties appealing shall recover costs if he, she or they shall succeed at the trial on appeal in changing the valuation or assessment of the land in question in his, her, its or their favor, and shall pay costs if he, she or they shall fail so to do; but no appeal shall prevent the city from taking the land upon filing the commissioners' report and award and payment or tender to the parties of the amount thereof as hereinbefore provided; but a party accepting from the city the amount of the award of the commissioners in his favor shall not have any appeal; that upon the verdict of the jury fixing the value of the land, the court shall enter judgment for the amount thereof, with or without interest and costs, according to the provisions of this act and the principle of law applicable to the trial of similar issues in other cases; and the judgment so entered shall be the sum which the owner or owners, tenant or tenants or other legal occupants are entitled to have from the city for the said land, and may be enforced by execution out of said court in manner and form similar to other cases in which judgment is pronounced in said court; and when the commissioners' award is paid by the city into court, as hereinbefore provided, and an appeal is taken and judgment is afterwards pronounced on the verdict, it shall be the duty of the court to order the money so paid into court applied to the payment of the said judgment, and the surplus, if any, repaid to the city.

An act to enable cities of the second class to acquire lands, for or without consideration, or by devise, beyond and within three miles of the corporate limits of said cities, for public parks, and to provide for the development and control of said lands for park purposes.

Approved June 20, 1890.

P. L. 1890, p. 493.

Second-class cities may acquire lands beyond city limits for park purposes.

Such parks, how managed.

Such parks, how improved.

Such parks not taxable.

Repealer.

**25. SEC. 1.** That the boards of aldermen or common council of cities of the second class shall have power to acquire lands, for or without consideration therefor, or by devise, beyond and within three miles of the corporate limits of said cities, for public parks only and exclusively.

**26. SEC. 2.** That the said lands for public parks, when acquired, shall be under the control and management of a park commission, to be composed of five citizens of said city, who shall be appointed by the mayor, and confirmed by a majority of the board of aldermen or common council, who shall hold their positions for five years and until their successors shall qualify; at least two shall be of the minority party.

**27. SEC. 3.** That the boards of aldermen or common council in said cities are hereby empowered to provide, by ordinance, for the proper development and improvement of said public parks acquired as aforesaid, and to make the necessary appropriations therefor.

**28. SEC. 4.** That all lands acquired as aforesaid, for said parks, shall be free from all assessments or taxation whatsoever.

**29. SEC. 5.** That all acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect immediately.

An act to provide for the purchase and otherwise acquiring of lands within the corporate limits of towns and boroughs of this state, for the purpose of public parks and places of resort for the public use, health and recreation, and to provide for the improvement and maintenance of the same.

Approved March 7, 1892.

P. L. 1892, p. 54.

**30. SEC. 1.** That any town or borough in this state may lease, purchase or otherwise acquire lands for public parks and places of public resort for health and recreation, and may provide for the improvement and maintenance of the same.

Towns and boroughs may acquire lands for public parks.

**31. SEC. 2.** That no lands shall be leased or purchased for the purpose of public parks or places of public resort under this act until the governing body of said town or borough shall have first passed a resolution designating the lands intended to be leased or purchased, with metes and bounds, the price to be paid therefor, the terms of payment and the conditions and restrictions under which said lands are to be leased or purchased, if any, which said resolution shall, before it have any binding force or effect on said town or borough, first be submitted to the legal voters of such town or borough at a special election to be held for such purpose; that immediately on the passage of said resolution the governing body of said town or borough shall cause public notice to be given, by the clerk thereof, of a time and place when said election shall be held; that said notice shall be given, at least thirty days before said election shall be held, and shall be published in at least one of the newspapers published and circulating in said town or borough, and in addition thereto shall be posted in at least five public places in said municipality; that said notice shall also designate the lands to be leased or purchased (as the case may be) and the price to be paid therefor; that the clerk of said town or borough shall provide ballots for each elector voting at said election, printed or written, or partly printed and partly written, on which shall be either the words, "for the resolution to purchase (as the case may be) lands for public parks and places of public resort," or "against the resolution to lease or purchase (as the case may be) lands for public parks and places of public resort;" that the polls shall open at seven o'clock in the morning and shall remain open until seven o'clock in the evening with the exception of from one o'clock to two o'clock in the afternoon, when the same may be closed; that said election shall be conducted by the town or borough election officers, who shall return a statement of the result of said election to the governing body of said town or borough as soon as the same can be made, which shall be entered in the regular book of minutes of said town or borough.

Resolution designating lands to be purchased to be submitted to voters.

Notice of election.

To be published and posted.

Notice shall designate the land.

Clerk to provide ballots.

Opening and closing of polls.

Officers of election.

**32. SEC. 3.** That if a majority of the legal votes cast at said election shall be in favor of said resolution then the governing body of said town or borough shall have the power and authority to lease or purchase lands for the purposes designated in said resolution and shall have the power and authority to issue the bonds of said town or borough of the sum designated in said resolution, said bonds to bear a rate of interest not exceeding the legal rate, payable semi-annually, the principal thereof to be payable in fifty years, or sooner, at the option of said town or borough, and it shall be the duty of the governing body of such town or borough to make sale of the bonds so issued, at not less than their par value.

Governing body may issue bonds if election is in favor of the resolution.

**33. SEC. 4.** That for the purpose of paying the principal and interest of said bonds, as the same shall become due, and for the further purpose of erecting, constructing and maintaining buildings, pavilions, roadways, walks, and for the general improvement of said public parks and places of public resort, said towns and boroughs are hereby authorized to lease, rent or hire for any specified time, any part of said property so acquired not necessary for public use exclusively, as in their judgment they deem proper, for such sum or sums of money as they may deem to be the best interests of said town or borough; that the money received for such leases and privileges as are granted shall first be applied in payment of such necessary improvements and repairs as the governing body of said town or

Towns and boroughs may rent any part of the property.

Money to be applied in payment of improvements, &c.

borough shall have made, from time to time, and the balance shall be applied to the payment of the interest and principal of said bonds as the same shall become due, said tax to be assessed at the same time and collected in the same manner in all respects as the municipal tax of said town or borough is assessed and collected.

Provisions for payment of bonds and appointment of sinking fund commissioners.

**34. SEC. 5.** That at least one-twentieth of the principal sum of said bonds shall be raised each year by special tax on all the taxable property in said town or borough and shall be applied in payment of the principal and interest of said bonds as the same shall fall due and for no other purpose, that should no bonds or interest be due on which to apply said money as the same shall be raised, then in that case the said town or borough authorities shall appoint three responsible persons as sinking fund commissioners, who shall give bonds for the faithful performance of their duty; that said commissioners shall have power and authority to invest said money in such manner and for such time as they shall deem for the best interests of said town or borough, subject, however, to the approval of the town or borough authorities, and in such securities as the trustees for the support of public schools are authorized to invest the moneys of the state.

**An act for the management of public parks in cities of the second class in this state.**

F. L. 1892, p. 303.

Approved March 28, 1892.

Park commissioners to be appointed in second-class cities.

Their qualifications and terms.

**35. SEC. 1.** That in all cities of the second class in this state owning a public park, the mayors thereof shall appoint, by and with the advice and consent of the common council, board of aldermen or other governing body of such cities, five persons, residents of such state, who shall constitute a park commission, and who shall serve without compensation; their terms of office shall be as follows: one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years, all from the date of their appointment hereunder; and at the expiration of the term of service of each member of such commission, others shall be appointed in the place of those whose terms expire, in the same manner, for the term of five years each and until their successors have qualified; so that the term of service of all the members of such commission under this act hereinafter appointed shall be for the term of five years; that no more than three members of said commission shall belong to the same political party; any vacancy occurring in such commission shall be filled by appointment as aforesaid, for the unexpired term only; that each of such commissioners shall, within ten days after his appointment, qualify before the city clerk of such city, by taking and subscribing an oath or affirmation, faithfully to discharge the duties of his office, to the best of his skill and ability; that the mayor of such city shall issue a commission to each of said commissioners.

Commissioners to elect president annually.

Park commissions to have entire control of parks.

**36. SEC. 2.** That such commissioners shall select one of their number as president of such commission for the ensuing year, and thereafter shall select one of their number as president each year.

**37. SEC. 3.** That the said park commissioners herein provided for shall have entire control and management of all public parks in said cities and shall be substituted for, and become vested with, and shall perform all the power, right, duty and authority as are or may be by law vested or imposed upon or exercised by, the common council, board of aldermen, committee, commission or other governing body having power to lay out, embellish, grade, improve, manage and control all public parks in said cities; that such park commissioners may make, alter and establish rules and regulations for the government and management of said parks, and the clerks, officers, employes and servants under the employ of said commission in such cities.

May appoint and employ clerk, officers, &c., and fix their compensation.

**38. SEC. 4.** That the said park commissioners shall be fully authorized and empowered to select, appoint and employ, from time to time, a clerk of the commission, a superintendent, officers, clerks and other persons or employes to aid the said commission in the discharge of the duties imposed

upon them, which, by the provisions of this act, are placed, or intended to be placed under the government, control and management of such commission, or as may be required by law therein or thereabouts as such commission may deem necessary and proper; such commission shall fix the compensation or salary to be paid to such officers or employes, and the manner of payment thereof, and may, in their discretion, require satisfactory bonds for the faithful performance of their official duties, to be made and executed by such officers, employes or any of them.

**39. SEC. 5.** That no park commission already appointed in any city of the second class under any law or ordinance shall become vacated, or the members thereof debarred from exercising the power and duties of such commission by reason of this act, but all such commissioners already appointed as aforesaid shall exercise all the duties and be vested with all the powers as if appointed under this act, and all subsequent appointments of members of such commission shall be made in the manner provided in the first section hereof and for the term of five years.

Powers of present commissioners.

**An act providing for the vacating, in cities of this state, of public parks which have been laid out by an act of the legislature, the land for which has not been actually appropriated and taken possession of for the purposes of such park, but has, from the time of the passage of any such act, remained in the possession and enjoyment and under the control of the owner or owners thereof.**

Approved April 7, 1892.

P. L. 1892, p. 408.

**40. SEC. 1.** That in any city of this state any public park which has heretofore been laid out as such by an act of the legislature, designating or describing the plot or tract of land so laid out, which has not been actually appropriated and taken possession of for the purposes of such park by the municipal authorities of any such city, but has remained in the possession and enjoyment or under the control of the owner or owners thereof from the time of the passage of any such act to the time of the passage of this act, shall be and the same is hereby vacated; *provided, however,* that no award of damages to the owner or owners of any such land has been made for or on account of the taking of the same for the purposes aforesaid.

Certain lands laid out as parks by the legislature, vacated.

**An act to enable the governing body of any town, village or township to enlarge existing parks.**

Approved May 8, 1894.

P. L. 1894, p. 217.

**41. SEC. 1.** That it shall and may be lawful for any board of commissioners, improvement commissioners or other governing body of any town or village or township in this state to enlarge any public park or square existing therein by the purchase of such additional adjoining lands as to such governing body shall seem best, and to annex the part so purchased to said existing park, and also to incorporate within the limits of any such park any street or public highway which may separate said park as it now exists from the property to be purchased under the provisions of this act; *provided, however,* that the cost of such an additional park property shall not exceed the sum of three thousand five hundred dollars.

Parks in towns, villages and townships may be enlarged.

**42. SEC. 2.** That for the purpose of purchasing said additional lands the governing body of such municipality shall have the right to issue its temporary loan bonds or notes, to run for such period, not exceeding five years, as said board may decide, to bear interest at the rate of not exceeding five per centum per annum, and to be sold for not less than par and accrued interest; that said municipality shall provide by taxation for the payment of the interest upon said temporary loan bonds or notes from year to year, and for the extinguishment of the principal thereof when due.

Bonds or notes may be issued.

**43. SEC. 3.** That said municipality shall have the right to agree with the owner or owners of such lands so desired for the enlargement of said park, and purchase the same at private sale, provided they can agree upon the price to be paid therefor.

May purchase land at private sale.

Proceedings to  
condemn lands.

**44. SEC. 4.** That in case said municipality shall be unable to agree with the owner or owners of such required lands for the purchase thereof, or when by legal incapacity or absence of such owner or owners, no such agreement can be made, a particular description of the lands so required shall be given in writing under oath or affirmation of some proper agent of the municipality, and also the name or names of the owners or occupants, if any there be, shall be presented to one of the justices of the supreme court of this state, who thereupon shall cause such municipality to give notice thereof to the persons interested if known and in this state, or if unknown or cannot be found, or if out of this state, to make publication thereof as he shall direct for any period not less than ten days; and to assign a particular time and place for the appointment of commissioners as hereinafter provided, at which time upon satisfactory evidence to him of the service or publication of such notice, he shall appoint under his hand three impartial and judicious freeholders, residents of the county in which such lands are situated, to examine and appraise the said lands and to assess the damages upon such notice to be given to the persons interested, as shall be directed by the justice making such appointment, not less than ten days, and it shall be the duty of the said commissioners (having first taken and subscribed an oath or affirmation before some person duly authorized to administer the same, faithfully and impartially to examine the matter in question and to make a true report and appraisal as aforesaid in writing according the best of their skill and understanding) to meet at the time and place appointed to make a just and equitable appraisal and assessment thereof as aforesaid, to be paid by the said municipality, which report shall be made under the hands of the said commissioners, or any two of them, and within fifteen days thereafter, together with the description of the lands and the appointment and oaths or affirmation as aforesaid, shall be filed in the clerk's office or the county within which such lands are situated, to remain of record therein; and thereupon, and on the payment or tender of payment of the amount so awarded to the party or parties entitled thereto, the said municipality is hereby empowered to enter upon and take possession of the said lands; and all title thereto for the purpose of which the same is taken shall upon such payment or tender pass from the said owners and parties interested to the said municipality; and in case of a dispute between any owners or other parties interested to their respective rights or shares in and to the sum so assessed or ascertained under this act, then the said municipality is hereby authorized to pay the sum so assessed for the said land to the clerk of the county in which said lands are situated, to be paid out and distributed between or among the parties entitled to the same by the order of the circuit court of said county upon the application of any one or more of them, on due notice to the others; and the said justice shall upon the application of either party, or on reasonable notice to the others, tax and allow such costs, fees and expenses to the commissioners and other persons performing any legal duty in the premises as he shall think equitable and right, which shall be paid by the said municipality; and if any or all of the said owners or other parties interested shall be absent from this state or under any legal incapacity that disqualifies them from receiving legal payment of the money awarded him, her or them, then it shall be the duty of the municipality to pay the amount awarded to such person or persons to the clerk of the county in which said lands are situated, and it shall be the duty of the said clerk to receive the same to be paid to the parties entitled thereto by order of the judge of the circuit court of the said county, upon his, her or their application for the same, and every and all of such payments to the clerk, as to the municipality, shall be equivalent to payment to the parties entitled thereto, and shall operate to transfer the title to said lands to said municipality as if made directly to the said parties; *provided, always,* that should the municipality or the owner or owners feel aggrieved by the report and award of the said commissioners, he, she or they may appeal from the said appraisal and award in respect to her, his or their in-

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terest therein, to the next circuit court in the county wherein the said lands are situated.

45. SEC. 5. That every appeal from the appraisement and award of the commissioners shall be made in the form of a petition to the said court, and notice thereof shall be given to the other parties within fifteen days after the filing of the commissioners' report and award, which proceeding shall vest in the circuit court full authority, power and jurisdiction to hear and determine the question of the value of the land and damages sustained, if any, and thereupon the said court shall direct a proper issue to be framed between the parties for the trial of the said question, and order a jury of twelve men to be struck for the same, and a view of the premises to be had by them; and the said issue shall be tried upon the like notice and in the like manner as other issues of fact in said court are tried; and it shall be the duty of the said jury to assess the value of the land in question, and the damages sustained, if any; and the party or parties appealing shall recover costs if he, she, it or they shall succeed at the trial on appeal in changing the valuation or assessment of the land in question and the damage in his, her, their or its favor, and shall pay costs if he, she, it or they shall fail so to do; but no appeal shall prevent the municipality from taking the land upon filing the commissioners' report and award and payment, or tender to the parties of the amount thereof, as hereinbefore provided, and a party accepting from the municipality the amount of the award of the commissioners in his favor shall not thereby waive his appeal; that upon the verdict of the jury fixing the value of the land and damages the court shall enter judgment for the amount thereof, with or without interest and costs, according to the provisions of this act, and the principles of law applicable to the trial of similar issues in other cases, and the judgment so entered shall be the sum which the owner or owners and other parties interested are entitled to have from the municipality for the said land and damages, and may be enforced in manner and form similar to other cases in which judgment is pronounced in said court; and when the commissioners' award is paid by the municipality into court, as hereinbefore provided, and an appeal is taken and judgment is afterwards pronounced on the verdict, it shall be the duty of the court to order the money so paid into court applied to the payment of the said judgment, and the surplus, if any, repaid to the municipality.

Proceedings in case of appeal.

An act to establish boards of county park commissioners and to define their powers and duties.

Approved May 8, 1894.

P. L. 1894, p. 228.

46. SEC. 1. That in any county with more than two hundred thousand population, it shall be lawful for the justice of the supreme court presiding in the courts of such county to appoint five persons to be known as the \_\_\_\_\_ county park commissioners, who shall hold their office for two years from the date of their appointment, and shall serve without compensation; and if vacancies happen by resignation or otherwise, such vacancies may be filled by such justice and the persons appointed to supply such vacancies shall be appointed for the unexpired terms only; said commissioners shall consider the advisability of laying out ample open spaces for the use of the public in such county, and shall have authority to make maps and plans of such spaces and to collect such other information in relation thereto as the said board may deem expedient, and shall, as soon as conveniently may be within the term aforesaid, make a report in writing of a comprehensive plan for laying out, acquiring and maintaining such open spaces. [See Sec. 66, *post.*]

Appointment of county park commissioners.

Their terms, &c.

47. SEC. 2. That said commissioners may employ such assistants as they may deem necessary and may expend such sums therefor and in the discharge of their duties, including the actual traveling expenses of said members, as they may deem expedient, not exceeding, however, the sum of ten thousand dollars; and such expenditures shall, from time to time, be certified by said board to the said justice of the supreme court, who, if

May employ assistants, &c.

satisfied of the correctness thereof, shall order the payment of the same by the board of chosen freeholders of such county, who shall order the county collector to pay the same out of the funds appropriated or to be appropriated for the maintenance of highways and bridges in such county or of any unexpended balance.

An act to establish public parks in certain counties in this state, and to regulate the same.

P. L. 1895, p. 169.

Appointment of board of county park commissioners.

Approved March 5, 1895.

**48. SEC. 1.** That in any county of this state containing a population of more than two hundred thousand it shall be the duty of the justice of the supreme court presiding in the courts of such county, as hereinafter provided, to appoint five persons a board of commissioners to be known as "the \_\_\_\_\_ county park commission" (inserting the name of the county in and for which such commissioners are appointed); the commissioners first appointed under the provisions of this act in any county shall hold office respectively for the term of one, two, three, four and five years, as indicated and fixed in the order of appointment, and all such commissioners, after the first appointment, shall be so appointed for the full term of five years; vacancies in the said board happening by resignation or otherwise shall be filled by such justice, and the persons appointed to fill such vacancies shall be appointed for the unexpired term only; such persons so appointed, when duly qualified, constituting such board of park commissioners, and their successors, are hereby created a body politic, with power to sue and be sued, to use a common seal and to make by-laws; the members of any such board shall serve without compensation; their necessary expenses shall be allowed and paid, and no person employed by the said board shall be a member thereof; before entering upon the duties of his office, each of the members of said board shall take and subscribe an oath or affirmation, faithfully and impartially to perform the duties of his office, which oath or affirmation shall be filed in the office of the clerk of the county wherein the board of which he is a member is appointed; every such board shall annually choose from among its members a president, vice president and treasurer, and appoint a clerk or secretary and such other officers and employes as it may deem necessary to carry out the purposes of this act; it may also determine the duties and compensation of such appointees and remove them at pleasure, and make all reasonable rules and regulations respecting the same; every such board shall have a suitable office, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection, at such times and under such reasonable regulations as the board may determine.

**49. SEC. 2.** That every such board shall have power to acquire, maintain and make available to the inhabitants of the county wherein it is appointed, and to the public, parks and open spaces for public resort and recreation, and shall have power to locate within the limits of said county such public parks and places, and for these purposes shall have power to take in fee or otherwise, by purchase, gift, devise or eminent domain, lands and rights in lands for public parks and open spaces within said county; deeds of conveyance therefor shall be made to the said board by its corporate name, and it shall be the duty of such board to preserve and care for, lay out and improve any such parks and places, and to make rules for the use and government of the same; such board shall have power also to connect any road, park or public open space with any other park or public open space, and also with any city or municipality of the said county by a suitable roadway or boulevard, and for this purpose shall have power to exercise any of the rights and powers granted by this act in the manner herein prescribed, and also to take or acquire in fee or otherwise in the corporate name of the said board for the benefit of the said county, by purchase, gift, devise or eminent domain, any lands or rights in land, and easements or interests in lands within the said county, although the lands so taken, or any part thereof, be already a street or way, and to construct and maintain along, across and upon and over the same, or any

Justice shall fill vacancies.

Board constituted a body politic.

No compensation allowed.

Employes shall not be members.

Board shall choose its own officers and employes and fix their duties and compensation.

Board may locate public parks, purchase land and acquire title thereto.

And improve the same.

other land acquired by the said board under this act, roadways, parkways or boulevards; *provided, however*, that the concurrence of the common council or other body having authority over highways shall be necessary to take or appropriate any portion of an existing street or road.

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50. SEC. 3. That the said board, before proceeding to purchase or condemn lands for a public park or place, shall determine upon the location and quantity of land to be included in any park or place, and cause a survey thereof to be made and a map showing the lands to be embraced therein, which map shall be kept by the said commissioners in their office, and the boundary lines of every such park or place shall be recorded in a book to be kept for that purpose by said board; and before laying out and opening any roadway, parkway or boulevard, they shall cause a survey of the same to be made and a map thereof to be filed in their office, showing the termini of the said roadway, parkway or boulevard, including the courses and distances, the names of the several owners or reputed owners of land through which the same will pass, so far as the same can be ascertained, and the streets or roads which may be included therein; *provided, however*, that the said board shall not be obliged to disclose such locations, surveys or maps to public inspection until it has taken proceedings to condemn lands or rights in lands necessary therefor.

Proceedings before purchase or condemnation.

Proviso.

51. SEC. 4. That when the said board shall deem it proper to acquire lands or rights in lands for any public park or place which they have located, as herein provided, and the said board or its agents duly authorized cannot agree with the owner or owners of such lands and rights in lands, as to the price and terms of the purchase thereof, or when by the legal incapacity or absence of such owner or owners, no agreement can be made for the purchase thereof, a description in writing of the lands or rights in lands so desired, with the name or names of the occupants, if any there be, and of the owner or owners, and other parties interested, if known, and their residences, if the same can be ascertained, by the board or its agents, shall be presented to one of the justices of the supreme court of this state, who shall thereupon cause such board to give notice thereof to the persons interested, if known, and in this state, or if unknown, or cannot be found, or out of this state, to make publication thereof as he shall direct, for any period not less than ten days; and assign a particular time and place for the appointment of commissioners as hereinafter provided, at which time, upon satisfactory evidence to him of the service or publication of such notice, he shall appoint under his hand three impartial and judicious freeholders, residents in the county in which such lands or rights in lands are situate, to examine and appraise the said lands or rights in lands and assess the damages, upon such notice to be given to the persons interested as shall be directed by the justice making such appointment, not less than ten days, and it shall be the duty of the said commissioners (having first taken and subscribed an oath or affirmation before some person duly authorized to administer the same, faithfully and impartially to examine the matter in question, and to make a true report and appraisement as aforesaid, in writing, according to the best of their skill and understanding), to meet at the time and place appointed, and to proceed to view and examine the lands or rights in lands, and to make a just and equitable appraisement and assessment as aforesaid, to be paid by the said board, which report shall be made under the hands of the said commissioners, or any two of them, and within fifteen days thereafter, together with the description of the lands or rights in lands, and the appointment or oaths or affirmations aforesaid shall be filed in the clerk's office of the county within which such lands are situate, to remain of record therein, and thereupon, and on payment, or tender of payment, of the amount so awarded to the party or parties entitled thereto, the said board is authorized and empowered to enter upon and take possession of the said lands and rights in lands; and all titles thereto for the purpose for which the same is taken shall, upon payment, or tender, pass from the said owners and parties interested to the said board in trust for the said county in and for which they are appointed; and in case of any dispute between any owner or

Proceedings to condemn lands.

other party interested as to their respective rights or shares in and to the sum so assessed and ascertained under this act, then the said board is authorized to pay the sum assessed to the clerk of the county in which said lands are situate, to be paid out and disbursed to or among the parties entitled to the same, by the order of the circuit court of the said county, upon the application of any one or more of the said parties interested, on due notice to the others ; and the justice shall, upon the application of either party, or on reasonable notice to the others, tax and allow such costs, fees and expenses to the commissioners and other persons performing any legal duty in the premises as he shall think equitable and right, which shall be paid by the said board ; and if any or all of the said owners or other parties interested shall be absent from this state, or under any legal incapacity that disqualifies them from receiving legal payment of the money awarded, then it shall be the duty of the said board to pay the amount awarded to such person or persons, to the clerk of the county in which said lands or rights are situate ; and it shall be the duty of the said clerk to receive the same, to be paid to the parties entitled thereto by the order of the circuit court of the said county, upon application made therefor, and every and all of such payments to the clerk shall be equivalent to payment to the parties entitled thereto, and shall operate to transfer the title of the said lands or said rights in lands to the said board, as if payment was made directly to the said parties ; *provided, always*, that should the said board, or the owner or owners of said lands or rights in lands feel aggrieved by the report and award of the said commissioners, they, or either of them, may appeal from the said appraisalment and award in respect to their interests therein, to the next circuit court of the county wherein the said lands are situate.

Fees and expenses  
to be allowed  
and paid.

Proviso.

Proceedings in  
cases of appeal.

**52. SEC. 5.** That every appeal from the appraisalment and award of the said commissioners shall be made in the form of a petition to the said court, and notice thereof shall be given to the other parties, within fifteen days after the filing of the commissioners' report and award, which proceedings shall vest in the circuit court the authority and power to hear and determine the question of the value of the land or rights in lands and the damages sustained, if any, and thereupon the said court shall direct a proper issue to be framed between the said parties for the trial of the said question, and order a jury to be struck for the trial of the same, and a view to be had of the premises by the said jury, and the said issue shall be tried upon like notice and in like manner as other issues of fact are tried in said court ; and it shall be the duty of the said jury to assess the value of the said land in question or rights in land, and the damages sustained, if any ; and the party or parties appealing shall recover costs in such suit, if they shall succeed at the trial on the appeal in changing the valuation or assessment in his, her or their favor, and shall pay costs, if they shall fail so to do, but no appeal shall prevent the said board from taking the land upon filing the commissioners' report and award, and payment or tender to the parties of the amount thereof, as herein provided ; that upon the verdict of the jury fixing the value of the lands or rights in lands and damages, the court shall enter judgment for the amount thereof, with or without interest and costs, according to the provisions of this act and the principles of law applicable to the trial of similar issues in other cases, and the judgment so entered shall be the sum which the owner or owners and other persons interested are entitled to have from the said board for the said lands or rights in lands and damages, and may be enforced in manner and form similar to other cases in which judgment is pronounced in the said court, and when the commissioners' award is paid by the said board into court, as hereinbefore provided, it shall be the duty of the court to order the moneys so paid into court applied to the payment of the said judgment, and the surplus, if any, repaid to the said board.

Board may estab-  
lish, change or  
alter grade of  
highways, boule-  
vards, &c.

**53. SEC. 6.** That the said board shall have power and authority not only to lay out and open roadways, parkways and boulevards, connecting parks and open spaces as herein provided, but shall have authority to establish the grade of such highways, and change and alter the same, to

grade, curb, flag, pave and otherwise improve the said parkways, roadways and boulevards, and to regulate the use thereof.

54. SEC. 7. That whenever the said board shall determine to open and lay out a boulevard, parkway or roadway, or to make any improvement thereof which shall require the condemnation of lands or rights in lands, the said board shall give notice by publication, at least ten days, in one or more of the newspapers circulating in the county wherein the lands to be condemned are situate of its intention to apply to the circuit court of the said county for the appointment of three disinterested commissioners to make an appraisal of the value of the lands and rights in lands necessary to be taken in the judgment of the said commissioners, and the damages occasioned thereby, for the opening and laying out of any boulevard or roadway, or for the improvement thereof; and also to ascertain, fix and determine the amount of the special benefits which the laying out of the said street or the improvement thereof will confer upon any owner of property benefited thereby; and at the time and place specified in such notice the said court shall appoint three disinterested freeholders resident in the said county to make a just and true appraisal of the value of the lands or rights in lands to be condemned and taken by the said board, for the purposes specified in the said notice and the damages, and also to make a just and true estimate and appraisal of the special or peculiar benefits which the opening of any such boulevard, parkway or roadway, or the improvement thereof, may confer upon any owner of property benefited thereby, in proportion, as nearly as may be, to the benefit which each owner may be deemed to acquire; and the said commissioners, when so appointed, shall forthwith take and subscribe an oath or affirmation, faithfully and impartially to perform the duties imposed upon them by law, and such oath or affirmation shall be filed in the office of the clerk of said county; and the said commissioners shall fix a time and place when they will hear the persons interested in the property to be taken and appropriated as aforesaid and in the benefits to be conferred by the proposed improvement, of which time and place public notice shall be given by the said commissioners for at least ten days prior to the day of meeting in two or more of the newspapers published and circulating in the said county, and after having viewed the premises and heard the parties interested, the said commissioners shall proceed to estimate and fix the value of the lands and rights in lands taken and the damages caused by such taking, and also ascertain and determine the amount of special or peculiar benefits conferred upon the owners of property benefited by the said opening or improvement, in proportion, as nearly as may be, to the benefits which each owner shall be deemed to acquire, and to make report of their assessments to said court; the said commissioners may report the damages awarded and the benefits assessed in any case in the same report or separately, as they may determine, and upon the coming in of any such report, signed by the said commissioners, or any two of them, the said court shall cause such notice to be given as it shall direct of the time and place of hearing any objections that may be made to such award or assessment, and after hearing any matter which may be alleged against the same, the said court shall, by rule or order, either confirm the said report or refer the same to the same commissioners for revision and correction, and the said commissioners shall return the same, when referred to them again, corrected and revised, or make new report thereof to the said court without unnecessary delay, and the same, on being so returned, shall be confirmed or again referred by the said court in manner aforesaid, as right and justice may require, and so from time to time until a report shall be made or returned in the premises, which the said court shall confirm, and such report, when so confirmed, shall be final and conclusive, as well upon the said board of commissioners as upon the owners of any land and real estate, or rights therein affected thereby, and the said court shall thereupon cause said report so confirmed to be filed in the office of the clerk of said county, there to remain of record; and the said court shall have power and authority to make such rules for the regulation of the practice

Notice of opening or improvement of roadways, boulevards, &c., to be advertised.

Appointment of commissioners to condemn lands for such boulevards, &c.

Appointment of commissioners to assess benefits.

Commissioners shall report to the court.

Court shall give notice of hearing of objections.

Commissioners shall revise report, if required.

Court shall confirm and file report.

- and procedure under this act as shall be deemed expedient and consistent with its provisions; the said court shall, upon application made by the said board or on its behalf, fix and determine the compensation to be paid the commissioners so appointed, and allow any other expense necessarily incurred in making any such assessment, all which shall be paid by the said board of park commissioners; *provided, however,* that the cost and expense of making any assessment for benefits, including the fees of commissioners, may be included in making up the entire cost for the purpose of such assessment.
- 55. SEC. 8.** That in every case in which damages are awarded under the provisions of this act to an owner or owners of lands, and benefits are assessed against the same owner or owners, it shall be lawful for the said board, when both the award of damages and the assessment of benefits have been finally confirmed, to deduct the amount of the benefits assessed from the damages awarded, and to set off such benefits against such damages by proper charges and credits, in order that the excess of damages, if any, shall be paid, and the excess of benefits, if any, only collected.
- 56. SEC. 9.** That any person or persons to whom an award shall be made as aforesaid, subject to the deductions for benefits assessed as aforesaid, may sue for and collect the said award after the same shall have been confirmed as aforesaid, in an action of debt against the said board in any court of competent jurisdiction, and a certified copy of the award so made shall be presumptive evidence of the claim sued upon.
- 57. SEC. 10.** That it shall be lawful for the said board to collect the assessments for benefits so made as aforesaid, either by a suit in an action in debt in the name of the said board against the person or persons from whom such assessment is due, together with the costs of making the same, and interest at the rate of six per centum per annum from the date of confirmation, or by a sale of the property benefited, or by both of the said remedies, which are to be cumulative, and every such assessment shall be a first lien upon the property benefited as ascertained by the said commissioners, to the amount of the assessment so made as aforesaid, with the interest and cost from the date of the confirmation of such assessment.
- 58. SEC. 11.** That all sums of money received from assessments for benefits shall be set apart by the said commissioners and devoted exclusively to the payment of bonds or obligations issued on its requisition, for the purpose of providing a fund to meet the expenditures of the said board and to the payment of the interest thereon.
- 59. SEC. 12.** That any and all assessments which may be made under and by virtue of this act for benefits conferred shall be and remain liens upon the lands and real estate benefited as aforesaid, from and after the time when the same shall be confirmed, and any such lien shall remain until the same shall be fully paid; and if any such assessment shall remain in arrear for a period exceeding six months after confirmation, suit may be brought for its collection as aforesaid with interest and costs, and the said board may proceed to advertise said lands and real estate upon which any assessment may be a lien to be sold at public auction at the court-house of the said county, on some day not less than two months distant, between two and five o'clock in the afternoon; that such advertisement shall be published at least once each week for a space of at least three weeks next preceding the said sale, in two of the newspapers published and circulating in the said county; such advertisement shall be the only notice required, and shall contain the names of the owners of land in default, if the same be known, if not, shall state the name of owners to be unknown, and shall give the amounts due from them respectively, with a short description of the lands and real estate to be sold, and at the time and place of said sale, said lands and real estate shall be openly sold to the person or persons who will take the same for the shortest period of time, not exceeding fifty years from the date of sale, and pay to the said board before the close of the sale the full amount due upon said unpaid assessments, with interest thereon from the time when the same was confirmed, at the rate of six per centum per annum, together with
- Proviso.
- Benefits may be deducted from damages awarded.
- Award of benefits may be collected by suit.
- Board may collect assessments, with interest and costs, by suit or sale of lands.
- Assessments received to be set apart for payment of bonds.
- Assessments to remain liens until paid.
- Suit may be brought after six months.
- Sales for assessments shall be advertised.
- Term for which lands shall be sold.

such sum as the said board may fix and determine to be a fair proportion of the expenses of advertising, conducting and making such sale; in the event that any purchaser shall neglect or refuse to make payment aforesaid, he shall forfeit all claim to said lands and real estate, and the same shall be resold by the said board upon like advertisement as aforesaid; the said board may adjourn any such sale from time to time by making proclamation thereof, and proceed therewith on the adjourned day, and the said board shall make and deliver to any purchaser at any such sale, who shall have made payment as aforesaid, a certificate of sale, signed by its officers thereunto duly authorized, and sealed with the seal of the said board, which certificate shall be acknowledged or proved according to law, and shall set forth as concisely as may be the facts of said assessment, advertisement and sale, together with a short description of the lands and real estate sold, the amount actually paid therefor by the purchaser and the length of time for which he shall have purchased the same; every such certificate shall, before its delivery, be recorded in one of the books to be kept by the board for this purpose; such certificate may be assigned by deed of assignment under seal, duly acknowledged as aforesaid, and every such assignment may be recorded in the books of said board upon the payment of a fee of one dollar therefor; every owner of land and real estate so sold, his, her or their legal representatives, or any mortgagee or mortgagees thereof, or any judgment creditor or creditors, having a legal or equitable interest therein, may, by payment to the said board, for the benefit of the said purchaser, his heirs or assigns, of the amount originally paid by the said purchaser, and of any tax or assessment which such purchaser may have paid, and of which he may have given written notice to the said board, with interest on all such payments at the rate of ten per centum per annum, redeem the said lands from the lien so imposed, but in case no such redemption is made the said board shall, at the expiration of the said period of three years, upon the surrender of any such certificate, execute and deliver to the purchaser, his legal representatives or assigns, a declaration of sale, to be executed in the same manner as the certificate of sale, and to be duly proved or acknowledged, stating therein briefly the facts of said assessment, advertisement and sale, giving a short description of the lands and real estate sold, and the time for which the same was sold; said declaration of sale shall be recorded in the books of the said board, and also in the record of deeds in the office of the register of said county, upon the payment of a fee of one dollar in each case; and until the recording of such declaration the time for redeeming said lands and real estate shall remain open, notwithstanding the expiration of the said term; every such declaration of sale shall be presumptive evidence in all courts and places that such sale and proceedings were in all respects regular and according to law; and such purchaser or purchasers, his, her or their legal representatives, shall, by virtue thereof, lawfully hold and enjoy such lands and real estate, with the rents, issues and profits thereof, for his, her or their own proper use against the owner or owners thereof, and all persons claiming under them, until the said term mentioned in the said declaration shall be fully completed and ended; every such purchaser so holding shall be liable for any injury or waste done or committed in the same manner and to the same extent as a tenant for years, but no mortgagee whose mortgage shall have been recorded or registered before any such sale shall be divested of his rights in and to the said lands and real estate, unless after notice shall have been given to him by any such purchaser for a period of six months (such notice to be in writing), such mortgagee shall neglect to redeem the said lands and real estate by paying the amount actually paid by such purchaser, including taxes, and including assessments subsequently made, with interest at the rate of six per centum from the date of payment, and also any costs or charges which he may have been by law obliged to pay; notice to every such mortgagee shall be served personally, if he be a resident of the said county, if not, it shall be addressed to him by mail at his place of residence, as stated in the said mortgage or any assignment thereof; every

Proceedings in case of non-compliance.

Certificate of sale shall be duly signed and acknowledged.

Certificate shall be recorded and may be assigned.

Owners may redeem lands, otherwise declaration of sale shall be executed.

Declaration shall be recorded.

Lands and real estate may be redeemed until recorded.

Purchaser may lawfully hold against owner.

Purchaser shall be liable for injury or waste.

Mortgagee may redeem.

Mortgagee shall be notified of liens and assessments.

such mortgagee holding a lien on lands sold redeeming as aforesaid, may collect the amount paid as a part of the debt due, and every such person shall be entitled to receive and hold by assignment the declaration of sale, as evidence of such payment, and as further security for the repayment of the sum so paid, with interest.

Unsold lands shall be struck off to the board.

**60. SEC. 13.** That lands and real estate which are not bid off and sold when offered for sale, or for resale, according to the provisions of this act, shall be struck off to the said board by its corporate name, for the longest term for which such sale is authorized to be made, and said board may hold said lands and real estate and sell, assign and dispose thereof and use the proceeds of the same in the same manner as directed in the case of moneys paid for benefits assessed, and such board shall have in relation to the said lands so struck off to it all the right and privileges of a purchaser at such sale.

Chosen freeholders may issue bonds to meet expenses incurred by the board.

**61. SEC. 14.** That to meet the expenses incurred under the provisions of this act in addition to the sum of money received from benefit assessments as herein provided and otherwise, the board of chosen freeholders of the said county shall, from time to time, on the requisition of said board of park commissioners, in the name and on the credit of the said county, borrow money by issuing the bonds of the said county to a sum in the aggregate not exceeding two million five hundred thousand dollars, such bonds to run for a term not exceeding fifty years, to bear interest at a rate not exceeding four per centum, payable semi-annually; such bonds shall not be sold or disposed of at less than their par value, and may be made payable at any place which the said board of chosen freeholders may determine and they shall also determine the form of the bond; a sinking fund shall be established by the said board of chosen freeholders on the issuing of any such bonds sufficient, with the accumulations thereof, to extinguish the principal of the said bonds so issued when due; the interest and principal of all bonds issued under the authority of this act shall be the debt or obligation of the county wherein they are issued and the payment thereof shall be provided for by taxation in the same manner that other debts and obligations of the county are provided for by taxation.

Bonds shall not be sold for less than par value.

Chosen freeholders shall establish sinking fund.

Sinking fund commissioners shall have custody of funds.

Provision concerning payment of bonds.

**62. SEC. 15.** That where sinking fund commissioners exist in any county in which such board of park commissioners shall be appointed under this act, and any such bonds issued, such sinking fund commissioners shall have the care and custody of the funds to be provided for the extinguishment of such bonded debt, but if no sinking fund commissioners shall exist therein, then it shall be the duty of the board of chosen freeholders of such county to provide for the care of such fund, and it shall be the duty of the officers of the county charged by law with the raising of moneys for county purposes to provide annually in the tax levy for the interest which may fall due during the succeeding year on any bonds issued under the authority of this act, and also each year to provide by taxation a fund sufficient, with the amount received from benefit assessments by the said board of park commissioners which shall be turned over for this purpose by said commissioners, and the accumulations of the sinking fund thus provided, to pay and extinguish the principal of all such bonds when they mature.

Lands held for parks shall be forever kept open as such.

Railroads forbidden therein.

**63. SEC. 16.** That all lands taken or held under this act for the purpose of public parks shall be forever kept open and maintained as such; and no steam or other railroad shall be laid out on, or maintained or operated in or on, any portion of the parks, open spaces, boulevards, parkways or roadways laid out and located under this act except at such places and in such manner as the said board of park commissioners shall in writing duly approve.

Board shall make and enforce rules and regulations, and post the same.

**64. SEC. 17.** That every such board shall have power and authority to make rules and regulations for the government and use of all such parks, open spaces, boulevards, parkways and roadways, and to enforce the same by prescribing and affixing for the violation thereof suitable penalties, not exceeding fifty dollars for each offense; such rules and regulations shall be plainly printed and posted within such parks and public places or on such

boulevard and other highways; and the said board shall have power and authority to sue for and collect the penalty prescribed and affixed for any violation of the rules and regulations so made in an action of debt in any court of competent jurisdiction; all fines and penalties recovered as aforesaid shall be used by the said board for the same purposes and in the same manner as other funds provided for its use.

Penalty.

65. SEC. 18. That any city or municipality within such county, or any local board in such city or municipality, having control of the parks or streets therein, is hereby authorized and empowered to transfer the care, custody and control of any park, public place or street under its care or control to the said board of park commissioners for the purposes of this act, with its consent, which consent such board of park commissioners is hereby authorized to give.

Municipalities may transfer care of parks to commissioners appointed under this act.

66. SEC. 19. That upon the appointment of commissioners in any county under the first section of this act, the commissioners appointed in any such county under the act entitled "An act to establish boards of county park commissioners, and to define their powers and duties," approved May eighth, one thousand eight hundred and ninety-four [see Secs. 46 and 47, *ante*], shall turn over to the board appointed under this act all their maps, plans and other property, and their powers shall terminate, except for the purpose of closing up their work.

When powers of other county commissioners to cease.

67. SEC. 20. That all acts and parts of acts, both general and special, inconsistent with this act, be and the same are hereby repealed, and that this act shall take effect immediately; *provided, however*, that none of the foregoing provisions shall take effect in any county, nor shall the commissioners to be appointed under the provisions of this act be appointed in any county, until the acceptance or rejection of this act shall have been submitted, as herein provided, to a popular vote; such submission shall be made, and the vote hereinafter provided for taken, at the next election, whether general, municipal or special, wherein the people of all the county qualified to vote, are authorized to vote for local officers, and it shall be the duty of the county clerk at least ten days before any such election, to give public notice by publication in two or more newspapers published and circulating in the county that such submission will be made at the ensuing election, stating briefly the question to be submitted as herein provided, and it shall be the duty of the said clerk to provide ballots sufficient in quantity for the legal voters of the said county, not less than five to each legal voter as the number of voters appears by the last preceding election, and make distribution thereof as far as practicable in the manner provided by law for the distribution of other ballots at such election; every such ballot shall contain either the words "for the new park bill" or the words "against the new park bill," and an equal number of each kind of ballots shall be so printed and distributed; and the legal voters of said county may at such election decide upon the acceptance or rejection of this act by the use of such ballots, such ballots shall be cast at such election, separate and distinct from other ballots used at such election, and shall not, except as herein provided, be regulated by the laws regulating ballots used in the election of public officers, such ballots however, shall be deposited when offered without being inclosed in an envelope by any legal voter in the ballot-boxes used at such election for the election of public officers; and all ballots so cast for or against this act shall be counted and the result thereof returned by the election officers holding such election as herein provided, and the acceptance or rejection of this act shall be determined by the result of such election, and if there shall be found on a canvass of all the votes cast to be made as herein provided, a majority of ballots in favor of this act, then this act, but not otherwise, shall take effect immediately in such county; the return and certificate of the result of the votes cast in every election district or voting precinct in such county for and against the acceptance of this act shall be filed forthwith after the close of the said election by the officers conducting the same, with the clerk of the county wherein such election is held, and it shall be the duty of such clerk to tabulate the said

Repealer.

Act not to take effect until so determined by an election.

How election shall be conducted.

## PURSUING AND DETECTIVE SOCIETIES.

Result of election to be filed, and certified to presiding justice.

returns and canvass the votes so cast in all the election districts in said county and certify upon such tabulated statement the number of votes cast for the acceptance of this act, and the number of votes cast against the acceptance of this act, and he shall file such tabulated statement with his certificate thereon in his office there to remain of record; and it shall be the duty of the said clerk within five days after the filing of such tabulated statement and certificate in case the same shall show that this act has been accepted in such county, to deliver a certified copy of the said tabulated statement and certificate to the justice of the supreme court presiding in the court of such county; and it shall be the duty of the said justice within ten days thereafter to appoint the commissioners which he is authorized by this act first to appoint; all expenses incident to this election properly certified by the president judge of the court of common pleas of such county shall be paid by such county wherein such election is held as other election expenses therein are paid.

When act to take effect.

**68. SEC. 21.** That this act shall take effect immediately as regards the submission thereof to a popular vote as aforesaid.

## An act for the incorporation of park trustees.

P. L. 1895, p. 321.

Approved March 14, 1895.

Trustees of lands for public park purposes may become incorporated.

**69. SEC. 1.** That whenever a tract of land has heretofore been, or may hereafter be, conveyed to any persons in trust for use as a public park, and such park has been opened and established, it shall and may be lawful for such persons to become incorporated as hereinafter provided, and have, possess and enjoy all the powers and privileges which now are or may hereafter be granted to corporations as such by law; such persons so desiring to become incorporated shall make a certificate in writing, under their hands and seals, which shall be filed and recorded with the clerk of the county wherein said park is situate; said certificate shall recite that the persons making the same are trustees, maintaining a public park, and the municipality, township or other place where the same is situated and maintained, and that they desire to become incorporated under a name to be therein stated, which shall thereafter be the corporate name of the said corporation, and upon the filing and recording of said certificate, said trustees shall be and become a body politic and corporate in the law as aforesaid, and thereafter shall have and hold any property, real and personal, belonging to said trustees, as the property of said corporation; *provided, however,* that said corporation shall be subject to the same limitations and restrictions as the trustees are subjected to, as to the management of the trust, in and by virtue of the instrument creating them such trustees; membership in such corporation shall be created as provided by the by-laws of such corporations.

Proviso.

## Pursuing and Detective Societies.

1. Protection societies, how incorporated.
2. Certificate to be made and filed with county clerk.
3. Election of directors and officers.
4. Capital stock, for what to be used.
5. Companies already formed may have benefit of act.
6. Formation of association by not less than twenty inhabitants. Certificate and filing.
7. Upon making and filing certificate, constituted body politic.
8. Election of officers. Appointment of marshals.
9. Powers of marshal.
10. Commission of marshal, how revoked.
11. Powers and duty of marshal.
12. Appointment of special police justices.
13. Power to purchase land and erect house of detention.
14. Formation of detective companies. Articles of association. Powers.
15. Objects.
16. May charge admission fee. Fines.
17. Election of officers and directors.
18. Amended by section 25.
19. Amended by section 23.
20. Annual and special meetings.
21. Directors to prepare by-laws.
22. Quorum. Company, how dissolved.
23. Pursuers to take oath of office.
24. Repealer.
25. Board of direction. Badge of office.
26. Repealer.
27. Members to give bond. Where filed, &c.
28. Prosecutor not to employ member who has not complied with act.
29. Penalty for member not complying with act.
30. Act not to apply to certain persons.
31. Members of thief-detecting societies to have police powers.
32. Companies may provide for indemnity from loss.