

SEC. 5. Any person owning, possessing, or controlling any elevator, warehouse, crib, or other place for storing grain, as provided in this act, who shall sell or remove, or knowingly permit to be removed therefrom, any grain, for which any receipt or certificate has been issued and is outstanding, held by any other person than the person issuing the same, and any person knowingly receiving, or helping to remove the same, shall be guilty of grand larceny, and punished as provided by statute, and such grain so removed shall be deemed and regarded as stolen property, and may be pursued and recovered, or its value recovered by the owner and holder of said receipt or certificate.

Removal of grain on which receipt is outstanding.

Larceny.

This Bill having remained with the Governor three days (Sunday excepted) the General Assembly being in session has become a law this 13th day of April, 1886.

FRANK D. JACKSON, *Secretary of State*

## CHAPTER 166.

### RELATING TO CONSTRUCTION OF SEWERS.

AN ACT Supplementary to Chapter 162 of the Acts of the Seventeenth General Assembly, Entitled "An Act to Authorize Cities of the First Class, Containing, According to any Legally Authorized Census or Enumeration, a Population of Over Thirty Thousand, to Provide for the Construction of Sewers. Additional to Code, Chapter 10, Title 4, Concerning Cities and Towns." S. F. 379.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That all cities of the first class containing, according to any legally authorized census or enumeration, a population of over thirty thousand, authorized by Section 1 of Chapter 162, of the Acts of the Seventeenth General Assembly, to provide by ordinance for the construction of sewers shall have the power and be subject to the conditions and requirements hereinafter provided.

Cities of over 30,000 population shall have certain powers.

SEC. 2. In all cases wherein it shall be determined to assess the whole or any part of the cost of any such sewer on the lots adjacent thereto, such determination shall be by resolution of the Council and if part only of the cost is to be assessed the resolution shall fix the proportion thereof to the whole cost and in either case shall also fix the location of the sewer, designating the terminal points and the Council shall, from the freeholders of the corporation appoint three assessors, whose duty it shall be to make, with the assistance of the City Engineer, a careful estimate of the aggregate cost so to be assessed and to

Assessment of cost of sewers, how determined.

Location of sewer.

Council shall appoint three assessors.

Shall estimate cost with assessment on lots in proportion to benefits.

Copy filed with city clerk.

report the same to the Council together with an estimated assessment thereof on the various lots to be charged therewith in proportion as nearly as may be to the benefits which in their opinion will result from such sewer to such lots respectively, a copy of which apportionment shall be filed in the office of the City Clerk for public inspection.

Notice published: what it shall contain.

SEC. 3. Before adopting the assessment so made the Council shall publish notice for three consecutive weeks in some newspaper of general circulation in the corporation, that such assessment has been made and that the same is on file in the office of said Clerk for the inspection and examination of persons interested therein.

Objections to assessments. Filed in two weeks in writing. Equalizing board.

SEC. 4. If any person shall object to the assessment he shall file his objections in writing with said Clerk within two weeks after the expiration of said notice and thereupon the Council shall appoint three disinterested freeholders of the corporation to act as an equalizing board.

Board shall qualify and hear and determine all objections, and equalize assessments and report to council.

Power of council.

SEC. 5. On the day appointed by the Council for that purpose, the board shall, after taking a proper oath before a proper officer, honestly and impartially to discharge their duties shall hear and determine all objections to the assessment and equalize the same as they may think proper; which equalized assessment shall be reported to the Council which shall have power to confirm the same or set it aside and cause a new assessment to be made and appoint a new equalizing board, possessing the same qualifications, which shall proceed in the same manner as above provided.

Assessment confirmed is final.

SEC. 6. When the assessment is confirmed by the Council it shall be complete and final.

Two thirds vote necessary to confirm.

SEC. 7. The concurrence of two-thirds of the members of the Council shall be necessary in appointing the equalizing board and in confirming its assessment.

Assessments under this act shall not exceed 15 per cent of value of property in 5 years.

SEC. 8. Special assessments as herein, and by the act to which this act is supplementary, authorized shall be so restricted as that the same territory shall not be assessed within any period of five years in such amounts as shall in the aggregate exceed fifteen per centum of the value thereof exclusive of improvements, but the aggregate of all such assessments shall be presumed to be within that limit unless and until questioned in writing by the owner or owners of any lot or lots, filed with the said Clerk, in which case such value shall be conclusively determined by the sworn appraisement of said assessors or of any two of them, which shall be in writing and filed with said clerk and if by such appraisement it shall appear that such limit has not been exceeded, the owner or owners causing such appraisement shall pay the cost thereof, and if not otherwise paid the same shall be included and collected with the assessment of such owner or owners.

Presumption that they are correct until questioned.

How determined.

Costs, how paid.

Estimate of benefits.

SEC. 9. In estimating the benefits to result from any such sewer no account shall be taken of improvements but each lot shall be considered as if wholly unimproved.

SEC. 10. The cost of any improvement contemplated in this chapter shall include the cost and expense of the proceedings for assessment, of drawings, of printing and public notices, including notice of assessment and any other necessary expenditure, and the cost of the construction.

Cost of improvement; what it shall include.

SEC. 11. When it shall appear to the council that a special assessment is invalid by reason of informality or irregularity in the proceedings, or when any assessment shall be adjudged to be illegal by a court of competent jurisdiction, the council may order a re-assessment whether the sewer has been made or not.

When invalid, council may order a re-assessment.

SEC. 12. Proceedings upon a re-assessment and for the collection thereof shall be conducted in the same manner as if provided for with respect to the original assessment.

Proceedings, how conducted.

SEC. 13. If an assessment prove insufficient to pay for the sewer and expenses incident thereto, the council may, under the limits prescribed for such assessment make an additional pro rata assessment to supply such deficiency, and in case a larger amount is collected than is necessary the same shall be returned to the persons from whom it was collected in proportion to the amounts collected from such persons respectively, but this section shall be subject to the limitations contained in other sections of this act.

When assessment insufficient an additional pro rata assessment may be made.

SEC. 14. When it is deemed necessary to make any such sewer the council shall declare by resolution the necessity therefor and shall give twenty days written notice of its passage to the owners of the property abutting upon the street or streets on which the same is constructed or to the persons in whose name it may be assessed for taxation on the tax list, who may be residents of the county and publish the resolution not less than two or more than four consecutive weeks in some newspaper of general circulation, in the corporation, *provided*, that all plans and profiles relating to any such sewer shall be kept on file in the office of the city engineer or clerk and open to all parties interested and the council may appoint a person to serve the notice provided for by this section, who shall make the return of the time and manner of such service and verify the same by affidavit, which shall be filed with the city clerk, and the same or a certified copy thereof shall be *prima facie* evidence of the service of the notice as therein stated.

Council shall give notice of sewer resolution to owners of property affected thereby.

Notice published.

Plans of sewer kept in engineer's office.

Approved April 13, 1886.