

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 22, 1893.

H. F. No. 49.

CHAPTER 211.

Local improve-
ments in cities.

An act to authorize cities to make certain local improvements and assess the cost thereof on abutting property.

Be it enacted by the Legislature of the state of Minnesota:

Assessments on
fronting prop-
erty.

SECTION 1. All cities in the state of Minnesota are hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements without regard to cash valuation.

For paving,
curbing, etc.

SEC. 2. Such assessment may be made by any city in the state for paving, curbing, graveling, macadamizing and planking any street, lane, alley or highway, and the expense of such improvement may be defrayed by an assessment upon the real estate fronting thereon, to be levied in the manner hereinafter prescribed.

Two or more
improvements
in one order.

SEC. 3. Two or more improvements upon one or more streets, either of paving, curbing, graveling, macadamizing or planking, or either or any of them, may be done at the same time under one order, and may be included in one contract. And the city council may, when any contract is let for paving, include in such contract the laying of sewer pipes to the curb, and the cost of the same may be assessed against the lot for which such sewer pipes are laid as a part of or in connection with the assessment for such paving.

Expense, how
assessed.

SEC. 4. The expense of any such improvement shall be chargeable to and assessed upon the lots and parcels of land abutting upon the street, lane, alley or highway in which such improvement is contracted to be done, upon the basis of an equal sum per front foot of each lot or parcel, measuring along the line of such improvement;

Provided, if two or more improvements are included in one contract, the expense of each improvement shall be separately apportioned and assessed upon the lots and parcels of land abutting upon such improvement, but two or more improvements may be included in one assessment proceeding.

Plans and speci-
fications.

SEC. 5. Prior to the passage of any resolution for the doing of any work, the expense of which is to be assessed upon abutting lots or parcels of land, as provided in this act, the city council of such city shall cause plans and specifications of such proposed work, with an estimate of the probable expense thereof, to be made by the city engineer of such city and presented to the council for its approval, and the same shall immediately, upon the approval thereof by the council, be filed with the

city clerk or recorder of such city for the inspection of all parties interested.

The city council shall then designate a time, not less than twenty days distant, and a place at which it will meet and act in relation to the doing of the proposed work, and direct that notice be given by the clerk or recorder of such meeting, and the time and place thereof, and that in the meantime sealed proposals for the doing of such work and the furnishing of all material therefor will be received by the city clerk or recorder.

In such notice shall be stated the location of the proposed work, and reference shall be made therein to the said plans, specifications and estimate so filed with the clerk or recorder, and the said notice shall be given by publication thereof in the official paper of such city at least once in each week for two successive weeks prior to the time designated as aforesaid by the council.

At the time and place designated in such notice an opportunity shall be given to any and all interested parties to be heard for or against such proposed work, and the recorder or clerk shall, in presence of the city council, open and read all sealed proposals which may have been received for the doing of such work, and the furnishing of all material therefor, and the city council may then, by a majority vote of all its members, accept the most favorable proposal (such proposal to be that of the lowest responsible bidder) and by resolution authorize the doing of the proposed work, or any part thereof, by the person or persons whose proposal shall have been accepted, and direct that written contract be made with him or them therefor; or may reject any or all proposals offered, and refuse to authorize the doing of such work or of any particular part thereof; or if it is deemed by said council to be to the best interests of the city, and the city engineer's estimate is less than the lowest bid for said work and material, may reject all proposals offered, and authorize the doing of such work under the direction of the city engineer without contract, or may, in its discretion from lack of a quorum, or other reason, postpone the consideration and decision of the whole matter, or any branch thereof, to a future definite time, of which postponement all parties interested shall be required and deemed to take notice. Such resolution, after the same has been passed by the council, shall be signed by the president of the council and attested by the recorder or clerk, and on the next day after the passage thereof the same shall be transmitted by such recorder to the mayor for his approval. If the mayor approve the same he shall append his signature with the date of his approval thereto, and return the same to said recorder within five days (Sundays excepted) from the date of its transmission to him; and if he declines to approve the same he shall within said period of five days return the same to the clerk or recorder with a

Consideration
by council.

Interested
parties may be
heard.

statement of his objections thereto, to be presented to the council at its next meeting thereafter.

Disapproval by
mayor.

Upon the return of said resolution to the council, without the mayor's approval, the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if upon such vote, which shall be taken by a call of the ayes and noes, two-thirds of all the members of the council shall vote in favor of such resolution, the same shall be declared enacted, and shall have the same force and effect as if approved by the mayor. If such resolution, so submitted to the mayor, shall not be returned by him to the recorder within said five days, Sundays excepted, after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk or recorder on demand.

Contracts to be
signed by
mayor.

SEC. 6. All contracts authorized by this act shall be executed on behalf of the city by the mayor, and attested by the clerk or recorder.

Assessing the
cost of the
work.

SEC. 7. After the resolution mentioned in section five hereof has been duly passed by the city council, the city engineer shall assess the cost of such work (the amount of the bid accepted by the council to be taken as such cost) upon the several lots or parcels of land abutting upon the street, lane, alley or highway in which such improvement is contracted to be done, as designated in section four of this act, and shall make an assessment thereof in writing, in which shall be given a description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereon, and shall, at its next regular meeting after the completion of such assessment, submit the same to the city council; provided, if said council has rejected all proposals offered, and has authorized the doing of such work under the direction of the city engineer, without contract, the city engineer's estimate shall be taken as the cost of such work, for the purpose of such assessment.

Action upon
assessment.

SEC. 8. On receipt of said assessment the council shall direct that the same be placed on file with the clerk or recorder, and shall appoint a time, not less than ten days distant, and a place, when and where it will meet to consider and act upon such assessment, and the clerk or recorder shall thereupon cause notice of such meeting, and the time, place and purpose thereof, to be given by one publication of such notice in the official newspaper of such city at least five days prior to the time so appointed for said meeting, and in said notice shall be given a brief description of the lots and parcels mentioned in the assessment so filed, the amount assessed to each, and the names so far as known of the owners of such lots and parcels.

SEC. 9. At the time and place so appointed, as provided in the last preceding section, the council shall pro-

ceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and may adjourn, if necessary, from time to time, and shall, after due consideration, make such corrections or changes in said assessment as they may deem necessary to perfect and equalize the same on the basis prescribed in this act, and shall confirm and establish the assessment as so corrected and equalized; and the said assessment, as so confirmed and established, shall be final, conclusive and binding upon all parties interested, and no appeal shall lie in any case from such confirmation; and the several amounts charged in such assessment, as so confirmed and established, against the several lots and parcels of land therein mentioned, shall be collected as hereinafter provided. If any assessments be annulled or set aside, the said city engineer shall proceed de novo to make another or new assessment in like manner, and like notice shall be given as herein required in relation to the first.

Council to equalize assessment.

SEC. 10. When in any case any portion of the cost and expense of making any improvement mentioned in this act shall, by virtue of any valid law or ordinance, or by virtue of any valid contract, be chargeable upon any railway company, the amount so chargeable may be assessed upon such railway company, and the balance only upon real estate abutting upon the street in which such improvement is to be made, and the city may collect the amount so assessed upon said railway company by distress and sale of personal property, in the manner provided for by the general laws of this state in the case of taxes levied upon personal property, or by suit brought for that purpose; provided, however, that any real estate belonging to such railway company shall be assessed as in other cases.

Portion chargeable to any railway.

SEC. 11. When any special assessment shall have been confirmed, it shall be the duty of the clerk or recorder to issue a warrant for the collection thereof, which shall be under the seal of said city, and signed by the mayor and such clerk or recorder of said city, and shall contain a printed or written copy of the assessment roll as confirmed, as aforesaid, or so much thereof as describes the real estate and the amount of the assessment in each case.

Warrant for collection.

SEC. 12. All warrants issued for the collection of special assessments shall be delivered by the clerk or recorder to the city treasurer within five days thereafter, taking his receipt therefor.

To be delivered to treasurer.

SEC. 13. Upon the receipt of any warrant for the collection of any special assessment, the city treasurer shall forthwith give notice by one publication in the official newspaper of the city that such warrant is in his hands for collection, briefly describing its nature, and requesting all persons interested to make immediate payment

Notice by treasurer of collection.

at his office; that in default thereof the same will be collected at the cost and expense of the persons liable for the payment of such assessments.

Lien upon
property.

SEC. 14. All assessments levied under the provisions of this act shall be a paramount lien on the real estate on which the same may be imposed from the date of the warrant issued for the collection thereof.

Failure to pay
assessments.

SEC. 15. If the assessments charged in any special assessment warrant made for any improvements whatsoever, under the provisions of this act, shall not be paid within thirty days after the publication of notice by the city treasurer that he has received such warrant for collection, except in case it is on a collection warrant issued on or by reason of a reassessment or a new assessment, in which latter case the notice that such warrant is in the treasurer's hands shall require payments to be made within ten days after the publication, the assessment then remaining unpaid shall be collected with interest at the rate of ten per cent per annum there after until the same shall be paid.

Treasurer to re-
port to district
court.

SEC. 16. It shall be the duty of the city treasurer, immediately after the expiration of thirty days, or after ten days on a reassessment or a new assessment warrant mentioned in the preceding section, to report to the district court of the county in which said city is located, at any general or special term thereof, all assessment warrants remaining unpaid for the collection of any assessments, under the provisions of this act, which have been delivered to him, and then and there ask for judgment against the several lots and parcels of land described in such warrants for the amounts of assessment, interest, and costs respectively due thereon. The city treasurer shall previously give at least ten days' notice by one publication in the official paper of said city of his intended application for judgment, which notice shall briefly specify the respective warrants upon which such application is to be made, and a description of the property against which judgment is desired, and require all persons interested to attend at said term. The advertisement so published shall be deemed and taken to be sufficient and legal notice of the aforesaid and intended applications by the city treasurer to such court for judgment, and shall be held a sufficient demand and refusal to pay said assessment.

Notice of ap-
plication for
judgment.

Advertisements
to be filed.

SEC. 17. The city treasurer shall obtain a copy of the advertisement or advertisements referred to in the preceding section, together with an affidavit of the due publication thereof, from the printer or publisher of the newspaper in which the same was published, and shall file the same with the clerk of such court at the said term with said reports.

Action of clerk
of court.

SEC. 18. The clerk of said court, upon the filing of such reports of the city treasurer, shall receive and preserve the same, and shall annex thereto, or file there-

with, all judgments, orders and other proceedings of said court in relation thereto. Each of said reports shall constitute a separate proceeding or suit, and shall be docketed by the clerk of said court in a suitable record book, to be kept by him for that purpose, in such manner as will sufficiently indicate the nature of the improvement for which the assessment is made, in which said record book the judgment, when rendered, shall also be docketed; provided, however, that the court may, by rule, or otherwise, direct how and in what form such proceedings and judgments may be entered or docketed, and what further record, if any, shall be made thereof, and what papers shall be filed, and how kept and preserved.

SEC. 19. It shall be the duty of the court, upon the filing of said reports, to proceed immediately to the hearing of the same, and they shall have priority over all other causes pending in said court. The said court shall pronounce judgment against the several lots and parcels of land described in said reports, for which no objection shall be filed, for the amount of the assessment, interest, damages and costs due severally thereon. The owner of any property described in said reports, or any person beneficially interested therein, who shall feel aggrieved by such assessment, shall file in said court his objections, in writing, to the recovery of judgment against such property, and shall serve a copy thereof upon the city attorney, at least five days prior to the time designated in the city treasurer's notice, that he will apply for judgment as provided for in section sixteen of this act. No objection will be interposed or sustained in relation to any of the proceedings prior to the confirmation of the assessment, except that the city council had no authority to order the said improvement, or to have the said work performed; and no objections as to any other of the proceedings shall be sustained on any mere formal irregularity or defect, and the city treasurer may amend by leave of the court in its discretion in any matter in furtherance of justice. The court shall hear and determine all objections in a summary manner without pleadings, and shall dispose of the same with as little delay as possible, consistent with the demands of public justice; but should justice require that for any cause the suit as to one or more owners should be delayed, judgment shall then be rendered as to the other property and lands, and process shall issue for the sale thereof, the same as in other cases.

SEC. 20. In all cases where a judgment shall be rendered in default against the property described in said reports, the court shall thereupon direct the clerk of said court to make out and enter an order for the sale of the same, which said order shall be substantially in the following form:

"Whereas, due notice has been given of the intended

Hearing by
court.

Entry of judg-
ment.

Order of sale,
form of notice.

application for a judgment against the said lands, and no owner hath appeared to make defense or show cause why judgment should not be entered against the said lands and other property for the assessment, damages, interest and costs due and unpaid thereon; therefore, it is considered by the court that judgment be and is hereby entered against the aforesaid lots and parcels of land in favor of the city of, for the sum annexed to each lot or parcel of land, being the amount of assessment, interest, damages and costs due severally thereon, and it is ordered by the court that the several lots and parcels of land, or so much thereof as shall be sufficient of each of them to satisfy the amount of assessment, interest, damages and costs annexed to them severally, be sold as the law directs."

Defense interposed.

In all cases where a defense shall be interposed and judgment shall be rendered against the property, a similar order, adapted to the circumstances of the case, shall be made and entered of record. Thirty-five cents costs shall be laid to each lot or parcel against which judgment is rendered, and the further sum of one dollar to each lot or parcel for advertising the notice of sale; provided, that in all cases where a defense is interposed and not sustained, the court may direct by special order, or by rule, such additional costs to be included in the judgment as may be deemed proper.

Treasurer to make sale on ten days' notice.

SEC. 21. It shall be the duty of the clerk of such court, within twenty days after such order is granted as aforesaid, to make out, under the seal of said court, a copy of so much of said city treasurer's report in such case as gives a description of the land against which judgment shall have been rendered, and the amount of such judgment, together with the order of the court thereon, which shall constitute the process on which all lands, lots, pieces and parcels of land shall be sold for the amount of any assessments, interest, damages and costs so levied, assessed or charged upon them; and the said city treasurer is hereby expressly authorized and empowered to make sale of such lands, lots, pieces or parcels of land or other property, upon ten days' notice, by one publication in the official paper of said city.

Publication of sale notice.

SEC. 22. The said advertisement, so to be published in each case of a judgment upon any collection warrant and report as aforesaid, shall contain a list of the delinquent lots and parcels of land to be sold, the names of the owners, if known, the amount of judgment rendered thereon, respectively, and the warrant upon which the same was rendered, the court which pronounced the judgment, and a notice that the same will be exposed to public sale at a time and place to be named in said advertisement by said city treasurer. The omission of the name of any owner, or any mistake respecting the same, shall not invalidate the sale if the property be otherwise described with sufficient certainty.

SEC. 23. In all proceedings and advertisements for the collection of such assessments, and the sale of lands therefor, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

Descriptions in sale.

SEC. 24. *Certificates of sale shall be made and subscribed by the city treasurer, under the seal of such city, which shall be delivered to the purchaser, and which certificates of sale shall contain the name of the purchaser, a description of the premises sold, the amount of the judgment for which the same was sold, adding interest at the rate of ten per cent per annum from the day when judgment was rendered to the day of sale, and fifty cents cost on each description, for such other expenses as may be incurred by the city in selling the property; which judgment, interest and costs shall constitute the total amount for which the property shall be sold, which amount shall also appear in the certificate, and the time when the right to redeem shall expire. Said certificates shall bear interest at the rate of ten per cent per annum until paid.*

Certificates of sale.

Said certificates shall state upon their face, in addition to what is now required by law, that, "This certificate may be redeemed in five annual installments, which shall become due and payable as follows: One-fifth of said certificate at the end of each one of the successive five years next ensuing the date of this certificate, together with the interest due on the whole amount thereof, unpaid at the maturity of each of said installments; provided, that said certificate may be redeemed at any time before maturity upon the payment of thirty days' interest, in addition to the interest which has already accrued." Provided, however, that property belonging to minors, or to a lunatic, upon which city deeds have been or may be issued can be redeemed while such disability continues by the guardian of such persons filing with the city treasurer a certified copy of his appointment by the probate court as guardian of such person, together with an affidavit, showing the facts of said inability, whereupon the treasurer shall deliver to him a certificate of redemption upon the payment of the proper sum; which certificate of redemption, together with a copy of the appointment as guardian and affidavit, aforesaid, shall be recorded in the office of register of deeds, and shall be deemed sufficient to remove the cloud from such title by reason of such city deed.

Redemption in five years.

SEC. 25. The person purchasing any lot or parcel of land shall forthwith pay to the treasurer the amount of the judgment due thereon, and on failure so to do, the said property shall be again offered for sale in the same manner as if no such sale had been made, and in no case shall the sale be closed until payment shall have been made. If no bid shall be made for any lot or parcel of land the same shall be struck off to the city; and

Payment by purchaser.

thereupon the city shall receive, in the corporate name, a certificate of the sale thereof, and shall be vested with the same rights as other purchasers at such sales.

Treasurer to
make record of
sale.

SEC. 26. The city treasurer shall enter and extend upon the certified copy of judgment and order of sale, issued to him by the clerk of the district court, the interest, cost and expenses to be charged against each lot or description, as provided by law, the amount of sale, to whom sold, or if struck off to the city, to whom transferred afterwards, with the amount of transfer, and attach thereto a copy of the advertisement pertaining to the sale. The city treasurer shall keep this record on file in his office. Certified copies thereof may be furnished when desired.

Redemption
and interest.

SEC. 27. If at the sale any piece or parcel of land shall be sold to a purchaser, or the piece or parcel be struck off to the city, the same may be redeemed at any time within five years from the date of the sale by any person having any interest therein, upon the payment of ten per cent per annum in lawful money of the United States of the amount for which the same was sold, with interest from the time of such sale at the rate of ten per cent per annum, in accordance with the provisions of this act, and upon the terms and conditions as to installments therein provided, and any other assessments which may be made under or by virtue of this act, or the charter of such city, subsequent to the sale, with the interest accruing thereon at the rate and payable in accordance with the provisions of this act. If the real estate of any lunatic or infant be sold under this act, the same may be redeemed at any time within one year after such disability shall be removed. Redemption shall be made by the payment of the redemption money to the city treasurer, and upon such payment the city treasurer shall execute to said redemptioner a certificate of satisfaction of said assessment, judgment and lien, upon the return of the certificate of sale, or upon proof of its loss, and the filing with the treasurer, clerk or recorder an affidavit to that effect. If the property shall not have been redeemed according to law, a deed shall be executed to the purchaser or his assigns, under the corporate seal of said city, signed by the mayor and clerk or recorder of said city, conveying to such purchaser or assignee the premises so sold and unredeemed, as aforesaid.

Notice of expi-
ration of re-
demption.

The city treasurer shall, at least three months before the expiration of the time for redeeming any lot or parcel of land aforesaid, cause to be published in the official paper of said city once a week for six successive weeks, a list of all unredeemed lots or parcels of land, specifying each tract or parcel, the name of the person to whom assessed, if to any, and the amount of the assessment, charges and interest, calculated to the last day of redemption, due on each lot or parcel, together with no-

tion that unless such lots or parcels of land be redeemed on or before the day limited therefor, specifying the same, they will be conveyed to the purchaser; provided, however, that before the holder of such certificate shall be entitled to a deed for said property he shall pay into the city treasury the cost of such notice of the expiration of the time of redemption. A memorandum of all deeds made and delivered shall be entered by the city treasurer in the book wherein such sales are recorded.

Provided, that nothing in this act contained shall be construed to affect or prejudice the lien of the state for all taxes which have been or may be levied upon such property under the general laws of the state. In cases of redemption the city treasurer shall notify the person holding the certificate of sale that the amount of such certificate, with the interest thereon so paid, is in the city treasury, subject to his disposal.

SEC. 28. Such certificate of purchase shall be assignable by indorsement, and an assignment thereof shall vest in the assignee or his legal representatives all the right and title of the original purchaser.

Certificates assignable.

SEC. 29. Whenever it shall appear to the satisfaction of the clerk or recorder before the execution of a deed for any property sold for assessments, that such property was not subject to assessment, or that the assessment had been paid previous to the sale, he shall, with the approval of the city council of said city, make an entry opposite to such property on his record of sales that the same was sold in error, and such entry shall be prima facie evidence of the fact therein stated. Provided, that where the sale shall have been made to any purchaser other than the city, the city council of said city, before approving of such entry, shall first cause notice to be given by mail, or in such manner as said council may direct, to the purchaser, his heirs, assigns or legal representatives, of the said proceeding; and provided, further, that in case such entry is approved the purchase money shall be refunded to the parties entitled thereto, with interest.

Property sold in error.

SEC. 30. All deeds made to purchasers of lots and parcels of land sold for assessments, or the record thereof, shall in all cases be prima facie evidence that all requirements of the law with respect to the sale have been duly complied with, and of title in the grantee therein, after the time for the redemption has expired, and no sale shall be set aside or held invalid unless the party objecting to the same shall either prove that the court rendering the judgment, pursuant to which the sale was made, had not jurisdiction to render the judgment or that after the judgment and before the sale such judgment had been satisfied, or that notice of sale as required by this act was not given, or that the piece or parcel of land was not offered at sale to the bidder who would pay the amount for which the piece or parcel was to be

Deeds to purchasers.

sold, nor unless the action in which the validity of the sale shall be called in question, be brought, or the defense alleging its invalidity be interposed within three years after the date of the sale, and if any sale shall be set aside by reason of the entry of the judgment, the court so setting aside the sale shall have power in such case to order a new sale to be made as near as may be in accordance with the provisions of this act. That in any action in which the validity of a deed or certificate of sale issued under this act is brought into question, and on account of any irregularities the same shall be set aside, the party holding such deed or certificate of sale shall recover from such city the amount paid by the purchaser at the sale or by the assignee of the city on taking an assignment certificate, with interest at the rate of seven per cent per annum from the date of such payment. Such amount shall be paid out of the city treasury upon the order of the city council of said city. Such proceedings shall not operate as a payment or cancellation of any assessment included in the judgment, but the same shall stand as originally assessed against the property, and with all accruing interests, penalties and costs. All deeds referred to in this act shall be admitted to record without payment of taxes, and without the county auditor's certificate that changes have been made.

Change in
office of treasurer.

SEC. 31. Any change in the incumbent of the office of the city treasurer during the pendency of any such proceedings shall not operate to affect or delay the same, but the successors in office of such city treasurer shall be authorized to do all acts necessary to complete such proceedings, the same as if his predecessor had continued in office. In case of a vacancy occurring in any such office the proceedings shall be prosecuted by the clerk or recorder of such city until such vacancy is filled by election or otherwise.

Sales at public
vendue.

SEC. 32. All sales of property for the non-payment of assessments, provided for in this act, shall be made in the day time at public vendue in such city, at the time and place stated in the notice of sale prescribed in this act, and may be adjourned from day to day (Sundays excepted) until the whole is completed.

Neglect of
officers.

SEC. 33. Any city treasurer or other officer who shall in any case refuse or knowingly neglect to perform any duty enjoined upon him by this act, or who shall consent to or connive at any evasion of its provisions, whereby any proceedings required by this act shall be prevented or hindered, shall, for every such neglect or refusal, be liable to said city individually and upon his official bond for double the amount of loss or damage caused by such neglect or refusal, to be recovered in an action in any court having jurisdiction of the amount thereof.

SEC. 34. No error or omission which may be made in the order or in the proceedings of the city council or

of any of the officers of said city in referring, reporting upon, ordering or otherwise acting, concerning any local improvement provided for in this act, or in making any assessment therefor, or in levying or collecting such assessment, shall vitiate or in any way affect such assessment unless it shall appear that by reason of such error or omission substantial injury has been done to the party or parties claiming to be aggrieved. The reports of the city treasurer and assessment warrants held by him referred to in this act shall be prima facie evidence that the proceedings up to the date of such warrants were valid and regular, and the certificates of sale issued as provided for in this act shall be prima facie evidence of the validity and regularity of all proceedings up to the date of such certificate.

Errors or omissions not to affect legality.

SEC. 35. No purchaser of lands or lots or other property sold for assessments, or his heirs or assigns, shall be entitled to a deed until he or they shall have paid all assessments made thereon prior or subsequent to the assessments under which such purchase was made. The amount of all such prior or subsequent assessments so paid by any such purchaser, his heirs or assigns, and all moneys paid by such purchaser, his heirs or assigns, to redeem the premises from any sale for any such assessment, shall be a lien on the premises in his favor, and the amount thereof, with interest at ten per cent per annum from the time of such payment or redemption, shall be refunded to such purchaser or be paid to the treasurer of said city, for the use of such purchaser, his heirs or assigns, by the owner or person entitled to redeem, before any redemption shall be made, except as provided in the section next following.

Deeds, prior and subsequent assessments.

SEC. 36. After any real estate shall have been bid in or struck off to the city, said city may enter upon such real estate and take possession thereof and by its treasurer sell the same for the amount of such special assessment, interest, penalty and costs, and a deed of the property so sold shall be executed in the same manner and by the same officers as provided in this act. Provided, however, that if any lot or parcel of land so struck off to said city shall be again sold for like assessments, while the said city holds its title as purchaser aforesaid, the same shall not be sold to any purchaser except said city for less than the amount actually remaining unpaid on the preceding assessment as well as such subsequent assessment, with interest aforesaid at the rate of ten per cent per annum.

Bidding in by the state and reselling.

SEC. 37. All judgments rendered under this act upon said assessments shall bear interest at the rate of ten per cent per annum from the date thereof until paid.

Interest on judgments.

SEC. 38. The city treasurer of said city may, at any time before or after the time of redemption has expired, assign any certificate of sale of property so bid in by the city as aforesaid to any person, by indorsement

Assignment of certificate.

thereon, after payment by such person into the city treasury of the amount at which the same was so bid in, together with the amount of any prior assessment, with interest thereon at the rate of ten per cent per annum and costs, and such assignee shall have the same right and title thereunder as if he had purchased the same originally at the sale, and shall be entitled to a deed as in other cases; provided, that after the expiration of the time of redemption of any certificate of sale of property, if the same shall remain unredeemed, the city council may authorize the city treasurer to sell, assign and transfer the interest of the city in and to any such certificate for such sum or price as to them may appear for the best interest of the city.

Judgment refused, new assessment.

SEC. 39. In all cases where application shall hereafter be made for judgment or judgments under this act and judgment shall be refused or denied by the court or the assessment or any part thereof as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any cause whatever, be set aside or declared void by any court, the city council shall, without unnecessary delay, instruct the city engineer to make a reassessment or new assessment to defray the expense of such improvement, and such reassessment or new assessment shall be made as near as may be in accordance with the law in force at the time such reassessment is made; and when the same shall have been made and confirmed by the city council, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act.

And in all cases where judgment shall hereafter be refused or denied by any court, or where any court hereafter shall set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lots or parcels of land may be reassessed or newly assessed from time to time, until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of said improvements as near as may be.

Irregularity or omission — new warrant.

SEC. 40. In all cases where the treasurer shall be unable to enforce the collection of any special assessment by reason of irregularity or omission in any proceeding subsequent to the confirmation of such assessment, the clerk or recorder and mayor of such city are hereby authorized and empowered to issue a new warrant to the treasurer for the collection of any assessment which by reason of such irregularity or omission remains unpaid or not collected. The treasurer shall proceed under such new warrants to enforce and collect the assessments therein specified in the same manner, as near as may be, as is prescribed by the provisions of this act for the enforcement and collection of special assessments after the same shall have been confirmed as in this act provided; and as often as any failure shall occur by reason of such irregularities or omissions a new warrant may issue and

new proceedings be had in like manner, until such special assessments shall be fully collected as to each and every tract and parcel of land charged therewith.

SEC. 41. In all cases where the work for any improvement contemplated by the provisions of this act shall be suspended before final completion by failure of the contractor to perform the same, or for any other cause, the city council may re-let the unfinished portion of such work in the same manner, as near as may be, as provided in this act for the letting of contracts for public improvements, and in every case of such new contract the work shall be paid for in the same manner as contracts for other like improvements.

Suspension of
work by con-
tractor.

SEC. 42. When any notice is required to be published in any newspaper under this act, an affidavit of the publisher or printer of such newspaper or of the foreman or clerk of such publisher or printer, annexed to a printed copy of such notice taken from the paper in which it was published, and specifying the time when and the paper in which such notice was published, shall be evidence in all cases and in every court of judicial proceedings of the facts contained in such affidavit.

Evidence of
publications.

SEC. 43. If for any cause the proceedings of the city council or any officer may be found irregular or defective, whether jurisdictional or otherwise, the city council may order a new assessment from time to time and as often as need be until a sufficient sum is realized from the real estate abutting on the street in which such improvement has been or is to be made to pay the costs, damages and expenses incurred thereby, it being the true intent and meaning of this act to make the cost and expenses of all public improvements provided for in this act local to such city and payable by such abutting real estate.

Regular or de-
fective proceed-
ings.

SEC. 44. The register of deeds shall not record any deed of any property located in cities which have become subject to the provisions of this act from a private person or private corporation unless there is indorsed on such deed a certificate of the city treasurer that all assessments for local improvements have been paid, and any violation of this provision by the register of deeds shall be a misdemeanor, and be punished by a fine not exceeding double the amount of the unpaid assessment. It shall be the duty of the city treasurer upon the application of any person interested in such deed, where the assessment has been paid, and not otherwise, to make such certificate free of charge, but the said city treasurer shall not certify that said assessment has been paid in any case where the property has been purchased by the said city at the sale provided for in this act, and the time for redemption has not expired, and the city still holds the certificates of sale.

Record of
deeds—city
assessments.

SEC. 45. Any city in the state of Minnesota heretofore or hereafter incorporated may become subject to the provisions of this act, and the city council of such

Acceptance of
this act by
cities.

Filing accep-
tance, existing
laws in conflict

city may effect the same by an ordinance thereof, duly passed by three-fourths of all the members of such council voting in favor of the same, and approved as provided by the charter of such city; and a certified copy of such ordinance so approved and duly certified, accompanied by a statement of the vote thereon, with the names of the members voting for and against said ordinance, shall be forwarded to and filed in the office of the secretary of state, and such city shall thenceforth be deemed to be subject to the provisions of this act, and shall be governed, controlled and regulated by and under the provisions of this act, and the city officers of said city shall thereupon exercise the powers conferred herein, and all courts in this state shall take judicial notice of the fact of such city becoming subject to the provisions of this act; and none of the provisions of this act shall have any force or effect in any city of this state unless accepted as in this section provided. And provided, further, that nothing in this act shall be construed to prevent any city in this state heretofore organized under any special law from continuing to conduct its municipal affairs under the provisions of such special laws until they shall elect to become subject to the provisions of this act as heretofore provided in this act.

SEC. 46. After the passage and adoption of the ordinance mentioned in the last section and the filing of the same with the secretary of state all laws of such city in conflict with this act shall no longer be applicable, and shall be repealed from and after that date, but all laws or parts of laws not inconsistent with the provisions of this act shall continue in force and be applicable to such city the same as if such city had not become subject to the provisions of this act.

SEC. 47. All suits, debts, taxes and claims whatever belonging to the said city shall be and remain in full force, and shall be sued for, recovered or collected under the provisions of law governing the said city prior to the acceptance of this act, and all proceedings for the collection of any special assessment for local improvement contracted for before such city became subject to the provisions of this act, shall be proceeded in as though no change had been made in the laws regulating and governing such city.

SEC. 48. This act shall take effect and be in force from and after its passage.

Approved February 18, 1893.