

CHAPTER IX.

An Act to amend the Charter of the City of Saint Paul.

SECTION 1. Amendment to Section two of Chapter six, Laws of 1858. Common Council may have power to open, alter and vacate public squares, streets, etc.—when necessary to take private property, how to proceed.

1. To appoint Commissioners to assess damages—penalty for refusing to serve.
 2. Commissioners to take oath for faithful performance of duties.
 3. May cause a survey and plat to be made, and filed with the City Clerk.
 4. Commissioners to view premises at the time and place appointed—may hear evidence offered by parties interested, etc.
 5. In case buildings have to be removed—damages to be assessed—damages in relation to buildings to be assessed separately from lands.
 6. If land and building owned by different individuals, how to proceed.
 7. Commissioners to report to Common Council—what to contain.
 8. Duty of City Clerk after the filing of report.
 9. Damages how paid.
 10. If owners remove their buildings within specified time may be entitled to damages awarded—persons neglecting to remove, how to proceed.
 11. Appointment of guardian, in what cases.
 12. Persons feeling themselves aggrieved by such assessment may have the right of appeal to the District Court.
2. Repeal of former sections.
 3. Amendment to Section one of chapter seven. To contract for the making, grading, etc., of streets, alleys, etc.
 4. Amendment to Section two, of Chapter seven. Expenses of grading, etc., how paid.
 5. Repeal of former sections.
 6. All contracts and public improvements specified in aforesaid act, and confirmed by Common Council, shall proceed, stand and be valid—disposition of unfinished improvements and contracts.
 7. Limitation of improvement tax.
 8. When act to take effect.

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

SECTION 1. That section two of chapter six of the act entitled an act to reduce the law incorporating the city of Saint Paul, in the county of Ramsey and State of Minnesota, and the several acts amendatory thereof, into one act, and to amend the same, approved March twentieth, one thousand eight hundred and fifty-eight, as amended by the acts amendatory thereof, shall be amended, so as to read as follows :

Section 2. The common council of said city, by a vote of not less than two-thirds of the members present, and constituting a quorum, at any stated or spe-

cial meeting, such vote to embrace a majority of all the members elect, shall have power to lay out, open, alter, and vacate public squares, streets, grounds, highways and alleys, and to widen and straighten the same. *Provided*, That, whenever it shall be required to take private property for the purposes aforesaid, they shall proceed in the manner hereinafter provided.

Power of city council

First.—The common council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as there may be wards of said city, selecting one from each ward, who shall be a disinterested freeholder and qualified voter of said city, to view the premises, and assess the damages which may be occasioned by the taking of private property or otherwise, in making said improvement. Said commissioners shall be notified as soon as practicable by the city clerk of said city, to attend at his office, at a time to be fixed by him for the purpose of qualifying and entering upon their duties, and in case any such commissioner, upon being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty dollars, and shall be liable to be prosecuted therefor, before the city justices of said city, as in the case of fines imposed for a violation of an ordinance of said city; and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy, the common council shall fill such vacancy.

To appoint commissioners—penalty for refusing to serve

Second.—The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter, with impartiality and fidelity, and to make due return of their actions and doings to the common council.

Commissioners to take oath

Third.—The said commissioners shall, with all reasonable speed, with the assistance of the city surveyor, of said city, cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting as far as practicable, the land or parcels of property required to be taken, or which may be damaged thereby, and shall thereupon give notice by pub-

Cause a survey and plat to be made

lication in the official newspaper of said city, for at least ten days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them, and thence proceed to view the premises, and assess the damages for property to be taken, or which may be damaged by such improvement.

Commissioners to view premises—when

Fourth.—At the time and place appointed, according to said notice, the said commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day if necessary, for the purpose aforesaid. When their view and hearing aforesaid, shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by said improvement, and in so doing, shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and also, the advantages which will accrue to such owner or owners in making such improvement.

Damages to be assessed in case of removal of buildings

Fifth.—If there should be any building standing in whole or in part upon the land to be taken, the said commissioners shall in each case determine and assess the amount of damages which should be paid to the owner or owners thereof, in case such building or so much thereof as might be necessary, should be taken, and shall also determine and assess the amount of damages to be paid to such owner or owners in case he or they should elect to remove such building, and the damages in relation to buildings aforesaid, shall be assessed separately from the damages in relation to the land upon which they are erected.

When owned by different individuals, how to proceed

Sixth.—If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such persons or interests respectively, may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

Seventh.—The said commissioners having ascertained and assessed the damages aforesaid, shall make and

file with the city clerk, a written report to the common council of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the name of the owners, if known to them, and also a statement of the costs of the proceeding.

To report to common council—
what to contain

Eighth.—Upon such report being filed in the office of the city clerk, said city clerk shall give at least ten days' notice, by proclamation in the official newspaper of said city, to the effect that such assessment has been returned, and that the same will be confirmed by the common council, at a meeting thereof, to be named in said notice, unless objections are made in writing, by persons interested in buildings standing in whole or in part upon any land required to be taken by such improvement, shall, on or before the time specified in said notice, notify the common council in writing of their election to remove such buildings according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over or be referred, shall have power, in their discretion, to confirm, revise, or annul the assessment, giving due consideration to any objections interposed by parties interested.

Duty of city clerk

Ninth.—The damages assessed shall be paid out of the general funds of said city, and shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessment and report, and the land or property required to be taken for the purposes aforesaid, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the common council, in the district court of Ramsey county, in the same manner as moneys are paid into court

Damages how paid

until the parties entitled thereto shall substantiate their claims to the same.

When owner entitled to damages awarded

Tenth.—In case any owner or owners of buildings as aforesaid, shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove,) to remove the same, within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct, and the same, or the proceeds thereof, shall belong to said city.

In what cases guardian may be appointed

Eleventh.—When any known owner of lands or tenements, affected by any proceedings under this act shall be an infant, or labor under legal disability, the judge of the district court of Ramsey county, or, in his absence, the judge of any court of record may, upon application of said commissioners, or of said city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by this act, shall be served upon such guardians.

Rights of appeal

Twelfth.—Any person feeling himself aggrieved by such assessment, may, by notice in writing, served on the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county of Ramsey, within twenty days from the time of the confirmation of said report or assessment, appeal from such assessment to the district court aforesaid. When such appeal shall be tried by the court and jury, as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified, considered, and a transcript of such report, certified by

the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law. The judgment of such court herein shall be final. Such appeal shall be entered and brought in for trial, and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits.

SEC. 2. All parts of said section two, of said chapter six, not incorporated in the foregoing amendment thereof, and also sections four, five and six of said chapter six, are hereby repealed.

Repeal of former acts

SEC. 3. That section one, of chapter seven of said act, of which this act is amendatory, shall be amended, so as to read as follows :

Section 1. The common council of said city shall have power to order and contract for the making, grading, repairing and cleansing of streets, alleys, public grounds, reservoirs, gutters, sewers and sidewalks, within said city, and to direct and control the persons employed thereon ; and all such improvement shall be superintended by the street commissioner of said city.

To contract for the making and grading of streets, etc.

SEC. 4. That section two, of said chapter seven, shall be amended so as to read as follows :

Section 2. The cost of making and grading streets, alleys, public grounds, reservoirs, gutters and sidewalks, shall be paid out of the general funds of said city ; but no such improvements shall be ordered by the common council, except by a vote of not less than two thirds of the members present, and constituting a quorum, at any stated or special meeting, such vote to embrace a majority of all the members elect. The cost of making and repairing sewers, and of repairing and cleansing streets, alleys, gutters, reservoirs and sidewalks, shall be paid out of the fund of the proper ward.

Expenses of grading how paid

SEC. 5. That sections three, five, six, eight, nine, and ten of said chapter seven, be and the same are hereby repealed.

Repeal of former acts

SEC. 6. In all cases of public improvements specified in said chapters six and seven, heretofore ordered to be made by the common council of said city, under the provisions of the act aforesaid, and duly

Previous contracts
to stand valid

placed under contracts not yet completed; and in all cases of assessments of damages upon the opening of streets, heretofore duly made and confirmed by the common council, under the provision of said act, the same shall proceed, stand and be valid, to the same extent as if this act had not passed, except that hereafter no assessment of benefits or special assessments against property owners shall be made thereon. And for the purpose of providing for said incompleated improvements, contracts and damages herein referred to, as well as to enable said city, if the common council shall deem it expedient, to open Fort street to the westerly limits of said city, and to open Seventh street, from St. Peter street, westerly, so as to connect with said Fort street, under the provisions of the charter, or upon such terms as may be agreed upon between said city and the parties in interest, and to complete the opening now in progress on Tenth street and Saint Peter street, the common council of said city is empowered to issue the bonds of said city, redeemable in not less than ten years from their date, bearing interest not exceeding seven per cent. per annum, to an amount not exceeding fifty thousand dollars, and to levy an annual tax for the payment of the interest thereof, and for a sinking fund for the payment of the principal, not exceeding one mill in the dollar on the taxable property in said city, according to its assessed value.

Limitation of Im-
provement tax

SEC. 7. That hereafter the amount of public improvements in said city, specified in said chapters six and seven, and payable out of the general fund of said city, shall not exceed, in the cost thereof, in any one year, three mills on the dollar, on the taxable property in said city, according to its assessed value, taken from the assessment of the preceding year; and all contracts entered into for such improvements, and debts contracted, or attempted to be contracted by said city for the same, whereby the cost of such improvements in any one year shall exceed the limit hereinabove prescribed, shall be null and void, and it shall be the duty of the comptroller of said city to keep a careful account of all expenditures, contracts and indebtedness, incurred or contracted by said city for such improve-

ments in each year, and after the same shall have reached the limit hereinbefore prescribed in any one year, said comptroller shall not allow any account, or countersign any order or contract whereby such prescribed limits may be exceeded for such improvements during such year. *Provided*, That the restriction herein contained, shall not apply to the cases provided in section six of this act.

SEC. 8. This act shall take effect from and after its passage.

Approved March 4, 1864.

CHAPTER X.

An Act relating to the Town of Minneapolis.

SECTION 1. Power of Board of Supervisors.

2. May impose fines, penalties and punishments for violation of any ordinances, rules or by laws.
3. Limits of said town.
4. Ordinances, rules and by-laws, how enacted.
5. All prosecutions to be brought in the name of said town.
6. Disposition of fines and penalties when collected.
7. In case fine or penalty not paid, the offender to be committed to the common jail.
8. No person shall be an incompetent judge, justice or juror, by reason of being an inhabitant of said town.
9. Board of Supervisors to appoint Town Marshal—vacancy how filled.
10. Town Marshal to give bond for faithful performance of his duties.
11. Town Marshal may appoint a deputy.
12. Fees of Town Marshal.
13. Salary of Town Marshal, by whom fixed.
14. Further powers of Board of Supervisors.
15. Duty of Town Assessor.
16. When act to take effect.

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

SECTION 1. The supervisors of the town of Minne-