

CHAPTER XXXII.

An Act to authorize the City of St. Paul to levy assessments for local improvements. March 6, 1871.

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

SECTION 1. That the municipal corporation of the city of St. Paul is hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements, without regard to a cash valuation.

Authorized to
levy assessments
for local improve-
ments.

SEC. 2. That such assessments may be made by the city of St. Paul for filling, grading, leveling, paving, curbing, walling, bridging, graveling, macadamizing, planking, opening, extending, widening and straightening any street, lane, alley or highway, and for keeping the same in repair; also for filling, grading, protecting, improving and ornamenting any public square, now or hereafter laid out; also for constructing, laying, relaying, erecting, cleaning and repairing cross and sidewalks, area walls, gutters, sewers and private drains.

Specifications of
improvements.

SEC. 3. The expenses of any improvements mentioned in the foregoing section shall be defrayed, save as herein otherwise provided, by a special assessment upon the real estate benefited thereby, to be levied in the manner hereinafter described.

Expenses, how
defrayed.

SEC. 4. Such assessments shall be made by a board of commissioners to be known as the commissioners on assessments, and to be appointed as follows: The mayor of said city shall on the first Monday of March of each year, or as soon as practicable thereafter, nominate and return to the common council of said city three persons from each ward of said city, who shall be each reputable freeholders of said city and qualified electors of the ward from which they have been selected, and none of whom shall be a member of said common council. The said common council at their next regular meeting, or as soon as practicable thereafter, shall select from each ward of said city, by ballot, one person taken from the three persons so nominated by the mayor from each ward respectively, and the said persons so selected by the said council shall constitute the board of commissioners aforesaid. Each of said commissioners shall hold his office for one year and until his successor shall be elected and qualified, and all vacancies for the unexpired term shall be filled by

Commissioners
to be appointed
—for what pur-
pose—term of
office—compen-
sation—penalty
for neglecting to
meet—quorum—
Secretary of
Board.

the mayor, subject to confirmation by the common council; *Provided*, That none of the said commissioners shall act in relation to any assessment upon property in which he is interested, and that the mayor may in such case appoint a commissioner *pro tempore*, to act in place of any commissioner who may be disabled from acting or on account of being interested as aforesaid; but in all cases of such vacancies the party appointed to fill the same shall be a reputable freeholder of said city and a qualified elector of the ward in which such vacancy may occur. Each commissioner, before entering upon the discharge of his duties, shall take and subscribe an oath to the effect that he will faithfully and impartially execute his duties to the best of his ability. Each of said commissioners shall be entitled to receive a compensation for his services of two hundred dollars per annum, payable quarterly, and no more. Meetings of said board of commissioners shall be called by the chairman, whenever required, and in case any such commissioner, upon being so notified of such meeting, shall neglect or refuse to attend, he shall, except in case of sickness or absence from the city, forfeit and pay a fine to said city not exceeding fifty dollars in each case, and shall be liable to be prosecuted therefor before the city justice of said city. A majority of said board shall constitute a quorum for the transaction of business, and they shall keep a record of all their proceedings and report the same to the common council whenever required, and such record, to be kept in the city clerk's office, shall at all times be open to public inspection. The city clerk shall act as secretary of said board of commissioners, and the city engineer shall act under the orders of said board, and do all surveying, make all plans and estimates or any such like work required by said board.

When petitioned for improvements to be referred to Board of Commissioners—how disposed of.

SEC. 5. Whenever an apparent majority of owners of property to be assessed for any improvement as mentioned in section two of this act shall petition the common council for such improvement, or whenever three-fourths of all the aldermen elect shall vote in favor thereof, the common council shall refer the same to the board of commissioners as referred to in the foregoing section. Said board shall then proceed to investigate the same, and if they shall determine that such improvement is necessary and proper, they shall report the same to the common council, accompanied with an estimate of the expense thereof.

If they do not approve of such improvement, they shall report the reasons for their disapproval, and the common council may then in either case order the doing of such work or the making of such public improvement, after having first obtained from said board an estimate of the expense thereof. In all cases the common council, after having obtained from said board of commissioners an estimate of the expense, may make such changes in the proposed plan as may be petitioned for by any of the owners of the property to be assessed, or as the council may think proper.

SEC. 6. Whenever such board of commissioners shall recommend the opening, straightening, widening, extending or grading of any street, lane, alley or highway in said city, they shall furnish to the common council a plan or profile of the contemplated improvement, and shall also specially report whether, in their opinion, real estate to be assessed for said improvement can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby; and whenever in any case they shall recommend to the common council the doing of any work or the making of any public improvement to be paid for by special assessment, they shall with such recommendation certify to the common council whether the contemplated improvement is asked for by the petition of the owners of a majority of the property to be assessed for such improvement, and if the owners of a majority of the property so to be assessed shall have failed to petition therefor, the same shall be ordered only by the votes of at least three-fourths of all the aldermen elect, such votes to be entered by ayes and noes on the records of the common council. The certificate of said board of commissioners shall be *prima facie* evidence as to the number of said petitioners and of their interest in the property assessed.

Council to be furnished profile of contemplated improvement.

SEC. 7. Whenever any order is passed by the common council by virtue hereof for the making of any public improvement mentioned in section two of this act, save as herein otherwise provided, which shall require the appropriation or condemnation of any land or real estate, the said board of commissioners shall as soon as practicable proceed to ascertain and assess the damages and recompense due the owners of such land respectively, and at the same time to determine what real estate will be benefited by such improvement and assess the damages,

Damages sustained, how ascertained.

together with the costs of the proceedings, on the real estate by them deemed benefited, in proportion, as nearly as may be, to the benefit resulting to each separate lot or parcel.

Board to give public notice of meeting—authorized to administer oaths.

SEC. 8. The said board of commissioners shall then give six days notice by publication in the official newspaper of the city, of the time and place of their meeting, for the purpose of making said assessment, in which notice they shall specify what such assessment is to be for, and shall describe the land to be condemned, as near as may be done by general description. The meeting of said board of commissioners when engaged in making such assessment shall be held in the office of the city clerk, to be specified in said notice, and all persons interested in any such assessment, shall have the right to be present and be heard either in person or by counsel. The said board of commissioners shall view the premises to be condemned and receive any legal evidence that may be offered, for the purpose of proving the true value thereof or the damages that will be sustained, or benefit conferred, by reason of the contemplated improvement; and the said commissioners for this purpose are hereby authorized to administer oaths to all witnesses produced before them. They shall permit the council of the city or the city attorney, to appear before them at such hearing, to represent the interest of the city, and may adjourn from time to time until such assessment is completed.

How assessments to be made.

SEC. 9. The said board of commissioners in making said assessment, shall determine and appraise to the owner or owners, the value of the real estate appropriated for the improvement, and the injury arising to them, respectively, from the condemnation thereof, which shall be awarded to such owners respectively, as damages, after making due allowances therefrom for any benefit which such owners may respectively derive from such improvement.

Damages and benefits—how equalized.

SEC. 10. If the damage to any persons be greater than the benefit received, or if the benefit be greater than the damage, in either case the said board of commissioners shall strike a balance and carry the difference forward to another column, so that the assessment may show what amount is to be received or paid by such owners respectively, and the difference only, shall in any case be collectable of them or paid to them.

SEC. 11. In the assessments of damages and benefits.

for the opening of any street or alley, it shall be lawful for the said board of commissioners, in their discretion, in making such assessment, where part of the land to be laid out into such street or alley, has been theretofore donated by any person or persons for such street or alley, to appraise the value of the land so donated, and to apply the value thereof, as far as the amount so appraised shall go as an offset to the benefits assessed against the person or persons making such donation, or those claiming under them; but nothing herein contained shall authorize any person or persons, by whom such donation is made, to claim from the city the amount of such appraisal, except as an offset as herein provided. And where the assessment is one for the widening of any street, which may have been theretofore, either in whole or any part, donated to the public by the proprietors of the adjoining land, it shall also be lawful for said board of commissioners, in their discretion, to make such allowance therefor, in their assessment of benefits, as shall in their opinion be equitable and just.

SEC. 12. If there should be any building standing in whole or in part upon the land to be taken, the said board of commissioners shall add to their estimate of damages for the land, the damages also for the building or part of building necessary to be taken, if it be the property of the owner of the land. When owned by any other person, the damages for the building shall be assessed separately. The value of such building to the owner to remove, or of the part thereof necessary to be taken, shall also be determined by the said board of commissioners, and notices of such determination shall be given by them to the owner when known, if a resident of the city, or left at his usual place of business or abode. If the owner is not known, or is a non-resident, notice to all persons interested shall be given by publication for twenty days' in the official paper of the city. Such owner may at any time, within twenty days' after service, or the first publication of such notice, notify to such board of commissioners, in writing, his election to take such building or part of building at their appraisal; and in such case the amount of such appraisal shall be deducted by the said board of commissioners, from the estimated damages for the land and building, where they belong to the same owner and [from] the estimated damages for the building where they belong to different owners; and the owner

When land donated in whole or in part how to proceed.

How to proceed when necessary to remove buildings. *scab*

shall have such time for the removal of the building, after the confirmation of the assessment, as the board of commissioners may allow. If the owner shall refuse to take the building at the appraisal, or fail to give notice of his election as aforesaid, within the time prescribed, then no deduction shall be made from the estimated damages aforesaid, and the said board of commissioners shall after the confirmation of the assessment, and after the money is collected or otherwise provided and ready in the hands of the treasurer, to be paid over to the owner, for his damages, proceed to sell such building or part of building at public auction, for cash, giving at least ten days' public notice of the sale by publication in the official paper of the city, and cause such building to be then forthwith removed. The proceeds of such sale shall be paid into the city treasury to the credit of the special assessment fund raised for the said improvement.

Mode of procedure if property owned by different persons.

SEC. 13. If the lands and buildings belong to different persons or if the land be subject to lease, the injury done to such persons respectively, may be awarded to them by the commissioners, less the benefits resulting to them, respectively, from the improvement.

When damages and expenses are ascertained, how to proceed.

SEC. 14. Having ascertained the damages and expenses of such improvement, as aforesaid, the said commissioners shall thereupon apportion and assess the same, together with costs of the proceedings, upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the improvement, as nearly as may be, and shall briefly describe the real estate upon which their assessments may be made; and it shall constitute no legal objection to such assessment, that the amount thereof either exceeds or falls short of the original estimate of the cost of the improvement submitted to the common council by the board of commissioners.

Assessment roll to be filed with City Clerk—to give public notice—objections may be heard—when new assessment may be ordered.

SEC. 15. When completed, the board of commissioners shall cause the assessment roll to be entered in a book to be kept for that purpose in the office of the city clerk, and sign the same, and shall file a duplicate thereof in the office of the city comptroller. Notice shall be given by said board of commissioners by six days' publication in the official paper of the city of the filing of such assessment roll, and [that] at the next regular meeting of the common council to be held after the expiration of such publication they will apply to the common council for a confirmation of said assessment.

Objections to said assessment may be heard before the common council, but all parties objecting shall file their objections in writing, in the office of the city clerk, at least one day prior to such meeting of the council. Should no quorum be present at the appointed meeting of the council, the matter shall stand postponed to the next regular meeting when there shall be a quorum, or it may be laid over till any subsequent regular meeting. The council shall have power to adjourn such hearing from time to time, and shall have power, in their discretion, to revise and correct the assessment, and confirm and annul the same, and direct a new assessment to be made. Said assessment, when confirmed by the common council, shall be final and conclusive upon all parties interested therein, except as hereinafter provided; and when said assessment is confirmed, and no appeal is taken as herein provided, a warrant shall issue for the collection of the same, signed by the mayor, city clerk, and the city comptroller. If said assessment shall be annulled by the common council, or set aside by the court, the board of commissioners by whom the assessment was made shall proceed to make a new assessment, and return the same in like manner, and give like notice as herein required in relation to the first; and all parties in interest shall have the like rights, and the common council shall perform like duties and have like powers in relation to any subsequent determination as are hereby given in relation to the first.

SEC. 16. Any person whose property has been appropriated, and who has filed objections to said assessment, as hereinafter provided, shall have the right at any time within twenty days after the confirmation of the same by the common council, and not after that time, having first given notice of his or her intention to do so, to the common council or the city attorney, specifying in such notice the court to which the appeal is to be taken, to pray an appeal to any court of general jurisdiction in Ramsey county, from the order of the common council confirming such assessment, upon filing a bond to said city, approved by the judge or judges of the court to which the appeal is taken, conditioned to pay all costs which may be awarded against the appellant. In case of appeal a copy of the assessment roll, as confirmed by the common council, and of the objections to the final order confirming the same, shall be filed in the office of the clerk of the court

Right of appeal.

to which such appeal shall be taken, and the cause shall be docketed by such clerk in the name of the person taking such appeal against the city of St. Paul, as an "appeal from assessments." The said cause shall be then at issue and shall have the preference in order of trial over all civil causes pending in said court. Such appeal shall be tried by such court, and on such trial the only questions to be passed upon shall be, whether the common council had jurisdiction in the case, and whether the valuation of the property specified in the objection is a fair valuation, and the assessment, so far as it affects said property, is a fair and impartial assessment. The judgment of the court shall be either to confirm or annul the assessment, from which judgment no appeal or writ of error shall lie.

When title to?
land vested abso-
lutely in said city

SEC. 17. When such assessment shall have been confirmed by the common council, and no appeal have been taken therefrom, or if an appeal shall have been taken, when judgment to confirm the assessment shall have been rendered thereon, the same shall be a lawful and sufficient condemnation of the land or property ordered to be appropriated. The common council shall thereupon cause to be paid to the owner of such property or to his agent, the amount of damages over and above all benefits, which may have been awarded therefor, as soon as a sufficient amount of the assessment shall have been collected for that purpose, but the claimant shall in all cases furnish an abstract of title, showing himself entitled to such damages, before the same shall be paid. If in any case there shall be any doubt as to who is entitled to the damages for the land taken, the city may require of the claimant a bond with good and sufficient sureties, to hold said city harmless from all loss, costs and expenses, in case any other person should claim such damages. In all cases the title to land taken and condemned in manner aforesaid shall be vested absolutely in the city of St. Paul, in fee simple.

When city may
enter upon and
appropriate such
property.

SEC. 18. As soon as the money is collected and ready in the hands of the treasurer, to be paid over to parties entitled to damages for property condemned, ten days' notice thereof shall be given by the city treasurer, in the official paper of the city; and the city may then, and not before, enter upon, take possession of and appropriate the property condemned; and whenever the damages awarded to the owner of any property condemned by said city for public use shall have been paid to such owner, or his agent, or when sufficient money for that purpose shall be in the

hands of the city treasurer, ready to be paid over to such owner, and ten days' notice thereof shall have been given in the official paper of the city, the city may enter upon and appropriate such property to the use for which the same was condemned.

SEC. 19. When the whole of any lot or parcel of land or other premises under lease or other contract, shall be taken for any of the purposes aforesaid, by virtue of this act, all the covenants, contracts and engagements between landlords and tenants, or any other contracting parties, touching the same or any part thereof, shall, upon publication of the notice required in the preceding section, respectively cease and be absolutely discharged

When covenant to cease between landlord and tenant as to whole of lot.

SEC. 20. Where part only of any lot or parcel of land or other premises so under lease or other contract shall be taken for any of the purposes aforesaid, by virtue of this act, all the covenants, contracts and agreements and engagements respecting the same, upon publication of the aforesaid notice, shall be absolutely discharged, as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so proportioned as that the part thereof justly and equitably payable for such residue thereof, and no more shall be paid and recoverable for the same.

When covenant to cease between landlord and tenant as to part of lot.

SEC. 21. Any proceedings taken by the board of commissioners in carrying out the provisions of this act shall be recorded by said board in a book or books to be kept for that purpose in the office of the city clerk, describing particularly the respective improvement and the real estate taken and assessed.

All proceedings of Board to be recorded.

SEC. 22. All owners of real estate or occupants of such real estate, in front of, adjacent to, or upon whose premises the common council shall order or direct any sidewalk to be laid, or gutter or curbing to be constructed, relaid or repaired shall construct, relay or repair such sidewalk, gutter or curbing at their own costs and charges in the manner prescribed by said common council, and within such time as the common council may direct by publication in the official paper of the city. If the work be not done in the manner and time so prescribed by the common council, the council may forthwith proceed to assess the amount necessary to be assessed therefor, together with all costs upon the real estate aforesaid, which assessments may be collected in the same manner

Expenses of building sidewalks, how paid.

as other special assessments are collected under the provisions of this act.

All orders to be referred to Commissioners—when work to be done by Street Commissioners.

SEC. 23. Whenever any order shall be passed by the common council for filling, grading, leveling, paving, walling, graveling, macadamizing, planking, bridging or repairing of any street, lane, alley or highway, or for the construction of underground sewers or private drains, the subject shall be referred to the board of commissioners, who shall forthwith proceed to assess the amount directed by the common council to be assessed for that purpose, with the costs of the proceedings therein, upon the real estate by them deemed benefited by any such improvement, in proportion as nearly as may be to the benefit resulting thereto in the manner hereinafter provided. *Provided*, That the repairing of any street, alley, highway, public grounds, bridges or sewers, the cost of which repairs is estimated not to exceed the sum of two hundred dollars may be done by the street commissioners, under the direction of the common council, and be paid out of the street improvement fund of the ward in which such improvement is made.

When property owned by railway company, how to proceed.

SEC. 24. When in any case any portions of the costs and expense of making any improvement mentioned in the foregoing section, 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 the real estate benefited thereby, and the city may collect the amount so assessed upon said railway company, by distress and sale of personal property, as in other cases, or by suit brought for that purpose; *Provided*, That any real estate belonging to such railway company and deemed benefited by the said improvement shall be assessed as in other cases.

To give public notice—what to contain.

SEC. 25. Before proceeding to make an assessment for any improvement mentioned in section twenty-two, said board of commissioners shall give six days' notice by publication in the official paper of the city of the time and place of their meeting, for the purpose of making said assessment, in which notice they shall specify what such assessment is to be for, and the amount assessed. All persons interested in any such assessments shall have the right to be present and be heard, either in person or by counsel, and the board of commissioners may, in their discretion, receive any legal evidence and may adjourn, if necessary, from time to time.

SEC. 26. When the board of commissioners shall have completed their assessment, they shall sign and return the same in like manner, and give like notice of the application to the common council for confirmation, as herein required in relation to assessment for the condemnation of real estate; and all parties in interest shall have the like rights, and the common council shall perform like duties and have like power in relation to such assessment as are herein given in relation to assessments for the condemnation of real estate. When confirmed by the common council, said assessment shall be final and conclusive, upon all parties interested therein, and shall be collected as in other cases, and no appeal shall lie in any case from the order of confirmation. If any assessment be annulled or set aside the said board of commissioners shall proceed to make a new assessment, and shall return the same in like manner, and give like notices as herein required in relation to the first.

To make return to Council for confirmation—when not appealable—new assessment may be ordered.

SEC. 27. Whenever any public improvement shall be ordered by the common council, by virtue of this act, and the assessment for the same shall have been confirmed, and one half of such special assessment shall have been paid into the city treasury, the city clerk shall, by direction of the said council, advertise for proposals for doing said work; a plan and profile of the work to be done, accompanied with specifications for the doing of the same, being first placed on file in the office of the city clerk, which said plan, profile and specifications shall at all times be open for public inspection; which advertisement shall be continued for at least ten days in the official paper of the city, and shall state the work to be done. The bids for the doing of such work shall be sealed bids, directed to the common council of the city of Saint Paul, and shall be sealed in such a manner that they cannot be opened without detection, and shall be accompanied by a bond to the city in the sum of five hundred dollars, signed by the bidder and two responsible sureties, conditioned that he shall execute the work for the price mentioned in his bid, and according to the plans and specifications, in case the contract shall be awarded to him; and in case of default on his part to execute the contract and perform the work, said bond may be sued and judgment recovered thereon by the city for the full amount thereof in any court having jurisdiction of the amount. Said bids shall be opened by the common council at their next regular meeting.

When to advertise for proposals—when bids to be opened.

All contracts to be given to the lowest responsible bidder.

SEC. 28. All contracts shall be awarded to the lowest reliable and responsible bidder or bidders, who shall have complied with the above requisition, and who will sufficiently guarantee to the satisfaction of the common council, the performance of said work to the satisfaction of the said council; *Provided*, That the contract price does not exceed the estimate, or such other sum as shall be satisfactory to the common council; copies of which contracts shall be filed in the office of the city clerk and city comptroller.

Who to decide as to proper performance of work—in case of default, how to proceed—when payment not considered a lien upon the city.

SEC. 29. The common council shall reserve the right in their said contracts, to finally decide all questions arising as to the proper performance of said work, and in case of improper construction, to suspend said work at any time, and re-let the same; or to order the entire reconstruction of said work if improperly done, with power hereby given to said common council to adjust the difference of damages or price (if any there be) which the contractor or contractors failing to properly construct said work, in such cases of default should, in their opinion, pay to the city, according to the just and reasonable interpretation of such contract; which difference or balance shall be recoverable at law in the name of the city, before any court having competent jurisdiction thereof, against such contractor or contractors. In cases where the contractor or contractors shall proceed to properly perform and complete their said contracts, the common council may in their discretion, from time to time, as the work progresses, grant to said contractor or contractors, an estimate of the amount already earned, reserving fifteen per cent. therefrom, which shall entitle said contractor or contractors to receive the amount that may be due thereon, when the money applicable to the payment of such work shall have been collected, and the conditions annexed to said estimate, if any, shall have been satisfied. Any person taking any contracts with the city, and who agree to be paid from special assessments, shall have no claim or lien upon the city in any event, except from the collections of the special assessments made for the work contracted for; and no work to be paid for by special assessments shall be let except to a contractor or contractors who will so agree.

Manner of advertising notices.

SEC. 30. Two or more of the notices required or authorized by this act, to be given by the board of commissioners or the city clerk by publication in the official

paper of the city, in any special assessment proceedings, may be comprised in one advertisement; *Provided*, Such notices are of the same general character, or for like objects, and *Provided*, That, in other respects, the notice so published shall sufficiently comply with the essential statutory requirements. And the provisions of this section shall extend to and embrace all notices required to be given in the official paper of the city, by the city treasurer of the delivery to him of all tax and special assessments warrants for collection, and of his intended application to some court of general jurisdiction for judgment thereon, provided by this act.

SEC. 31. When any special assessment shall have been confirmed by the common council, and no right of appeal therefrom is given by this act, it shall be the duty of the city clerk to issue a warrant for the collection thereof, which shall be under the corporate seal, and signed by the mayor, comptroller and city clerk, and shall contain a copy of the assessment roll as confirmed by the common council, or so much thereof as describes the real estate and the amount of the assessment in each case. If the right of appeal from the order of confirmation shall exist in any case, said warrant shall not be issued until the expiration of the time limited for the taking of such appeal; and if in any case an appeal should be actually taken, the issuing of the warrant shall be delayed until after the determination of such appeal.

When special assessment made, duty of City Clerk.

SEC. 32. All warrants issued for the collection of special assessments shall be delivered by the comptroller to the city treasurer, taking his receipt therefor in the manner prescribed in the case of warrants for the collection of the annual taxes.

All warrants issued to be delivered to Treasurer

SEC. 33. Upon the receipt of any warrant for the collection of any special assessment, the city treasurer shall forthwith give notice by ten days' 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 payments at his office, and that in default thereof the same will be collected at the cost and expense of the persons liable for the payment of such assessments.

Upon receipt of warrant, duty of Treasurer.

SEC. 34. All assessments levied by the common council under this act, shall be a lien upon the real estate on which the same may be imposed, and said lien shall continue until said assessments are paid.

All assessments to be a lien upon real estate.

Penalty for non-payment of assessment.

SEC. 35. If the assessments charged in any special assessment warrant, shall not be paid within sixty days after the first publication of notice by the city treasurer, that he has received such warrant for collection, the assessment then remaining unpaid shall be collected, with interest, at the rate of one per cent. thereon for each and every month thereafter, until the same shall be paid.

When Treasurer to make report asking judgment for unpaid assessments—notice of intention—what deemed legal notice of application for judgment.

SEC. 36. It shall be the duty of the city treasurer, between the fifteenth day of January, and the last day of February in each year, to make report to some court of general jurisdiction held in said city, at any special or general term thereof, of all the assessments then remaining unpaid, and all special assessments warrants which were delivered to him on or before the last day of the preceding October, asking for judgment against the several lots and parcels of lands described in such list of warrants for the amount of assessments, damages and costs respectively due thereon. The city treasurer shall give notice by six days' publication thereof in the official paper of the city, of his intended application for judgment, which shall briefly specify the nature of the respective warrants upon which such application is to be made, and request all persons interested to attend at such term. The advertisement so published shall be deemed, and taken to be sufficient, and legal notice of the aforesaid intended application by the city treasurer to such court for judgment, and shall be held as sufficient demand and refusal to pay the said assessments.

Treasurer to file notice with Clerk of Court.

SEC. 37. The city treasurer shall obtain a copy of the advertisement or advertisements referred to in the preceding section, together with a certificate 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.

Duty of Clerk of Court—to constitute separate suits

SEC. 38. The clerk of said court, upon the filing of such reports by the city treasurer, shall receive and preserve the same, and shall record thereon all judgments, orders, and other proceedings of said court in relation thereto. Each of said reports shall constitute a separate suit, and shall be docketed by the clerk in the following form as nearly as may be, to-wit:

City of St. Paul vs. _____ and others
 suit for assessment on warrants for _____
 or in such other manner as will sufficiently indicate the

nature of the improvement for which the assessment is due.

SEC. 39. 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, damages and costs due severally thereon. The owner of any property described in said reports, or any person beneficially interested therein, may appear at said court at the time designated in the city treasurer's notice, and file objections in writing to the recovery of judgment against such property; but no objections shall be sustained founded on any mere formal irregularity or defect. The court shall hear and determine all objections in a summary way without pleadings, and shall dispose of the same with as little delay as possible, consistently 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 for more than twenty days', judgment shall then be rendered as to the other property and lands, and process shall issue for the sale thereof the same as in all other cases.

To have priority over other suits pending—how may be tried.

SEC. 40. In all cases where judgment shall be rendered by default against the property described in said reports, the court shall thereupon direct said clerk to make out and enter an order for the sale of the same, which said order shall be substantially in the following form:

When Clerk to make order for sale of the same—costs, what amount.

“ WHEREAS, Due notice has been given of the intended application for a judgment against 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 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 St. Paul, for the sum annexed to each lot or parcel of land being the amount of the assessment, damages and costs due severally thereon; and it is ordered by the court, that the said several lots and parcels of land, or so much thereof as shall be sufficient of each of them, to satisfy the amount

of the assessment, damages and costs annexed to them severally, be sold as the law directs."

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. Ten cents cost shall be laid to each lot against which judgment is rendered; five cents to be for clerk's and judge's fees, and five cents for advertising the notice of sale.

What to constitute the process—Treasurer authorized to make sale.

SEC. 41. 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, sub-lots, pieces and parcels of land, shall be sold for the amount of any assessments, 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, and to be published at least three times in the official newspaper of said city.

What notice to contain—what not to invalidate the sale—when proceedings may be stopped.

SEC. 42. The said advertisement, so to be published in each case of a judgment upon any special or general collection warrant and report 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 the judgments 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. The proceedings may be stopped at any time upon payment of said judgment to the city treasurer.

What may be used to denote lots, blocks, etc.

SEC. 43. 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, sub-lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

SEC. 44. Certificates of sale shall be made and subscribed by the city treasurer, which shall be delivered to the purchaser, which certificates shall contain the name of the purchaser, a description of the premises sold, the amount of the assessment, with the amount of the judgment for which the same was sold, and the time when the right to redeem shall expire. The city treasurer shall continue such sale from day to day, until all the lots or parcels of land contained in his precept, on which judgment remains unpaid, shall be sold or offered for sale.

Certificate of sale to be issued by Treasurer—what to contain.

SEC. 45. The person purchasing any lot or parcel of land, shall forthwith pay to the city 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 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.

When sale to be closed—when property may be struck off to the city.

SEC. 46. The city treasurer shall make return of his precept to the court from which the same was issued. A record of all sales made by the city treasurer shall be kept in the office of the comptroller, which shall be open to public inspection at all reasonable times; and said record, or copies thereof, certified by said comptroller, shall be deemed sufficient evidence to prove the sale of any land or other property for assessments, or any other fact authorized to be recorded therein.

Treasurer to make return to court—by whom record to be kept

SEC. 47. The right of redemption in all cases of sales for assessments shall exist to the owner, his heirs, creditors, or assigns, to the same extent as is allowed by law in the case of sales of real estate under execution, on the payment, in lawful money of the United States, of the amount for which the same was sold, and all taxes accruing subsequent to the sale, with interest at the rate of twenty-four per cent. per annum. If the real estate of any infant, or lunatic, 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 amount of redemption money to the city treasurer, and taking his voucher therefor, and filing the same in the office of said comptroller, who shall thereupon note the fact of said redemption upon his

Right of redemption.

record of sales; or, any person holding a certificate of sale may surrender the same to the comptroller to be cancelled, and the fact shall in like manner be noted upon said record. Upon the return of the certificate, or proof of its loss, and the filing with the comptroller of 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, signed by the mayor, comptroller and clerk, conveying to such purchaser or assigns the premises so sold and unredeemed as aforesaid. A memorandum of all deeds so made and delivered shall be entered by the comptroller in the book wherein tax sales are recorded; and a fee of one dollar may be charged by the comptroller for every deed so issued.

Certificate of purchase shall be assignable—how.

SEC. 48. 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.

Duty of Comptroller when property sold in error.

SEC. 49. Whenever it shall appear to the satisfaction of the comptroller, 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 make an entry opposite to such property on his record of sales that the same was sold in error, and such entry shall be evidence of the fact therein stated.

What deemed to be evidence in relation to the right of the purchaser.

SEC. 50. All deeds made to purchasers of lots and lands sold for assessments, shall be *prima jacia* evidence in all controversies and suits in relation to the right of the purchaser, his or her heirs or assigns, to the premises thereby conveyed, of the following parts:

First.—That the land or lot conveyed was subject to assessment at the time the same was advertised for sale, and had been listed and assessed in the time and manner required by law.

Second.—That the assessments were not paid at any time before the sale.

Third.—That the land or lot conveyed had not been redeemed from the sale at the date of the deed.

And shall be conclusive evidence of the following facts:

First.—That the land or lot was advertised for sale in the manner and for the length of time required by law.

Second.—That the land or lot was sold for assessments, as stated in the deed.

Third.—That the grantee in the deed was the purchaser.

Fourth.—That the sale was conducted in the manner required by law.

And in all controversies and suits involving the title to the lot or land claimed and held under and by virtue of such deed, the person or persons claiming title, adverse to the title conveyed by such deed, shall be required to prove, in order to defeat the said title, either that the land or lot was not subject to assessment at the date of sale, that assessments had been paid, that the land or lot had never been listed and assessed for assessment, or that the same had been redeemed according to the provisions of this act, and that such redemption was made for the use and benefit of the persons having the right of redemption under the laws of this state; but no person shall be permitted to question the title acquired by said deed without first showing that he, she or they, or the person under whom he, she or they claim title, had title to the land or lot at the time of the sale, or that the title was obtained from the United States, or this state after the sale, and that all taxes due upon the lot or land have been paid by such person, or the person under whom he claims title as aforesaid.

SEC. 51. Any change made in the incumbent of the office of city treasurer during the pendency of any such proceedings, shall not operate to affect or delay the same, but the successor or 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 comptroller until such vacancy is filled by election or otherwise.

What not
lay proceeding
—in case of va-
cancy, by whom
prosecuted.

SEC. 52. All sales of property for the non-payment of assessments, for any improvement of what kind soever, shall be held at the same time with the general sale of property for non-payment of taxes in each year, unless in particular cases, said sale is stayed or delayed by examination or process of law, the intent hereof being that there shall be but one general collection by sale, of all taxes and assessments whatsoever in each and every year; which sale shall take place in the manner hereinbefore provided, and at the same time in each year. *Provided*, That in all cases where judgment shall be delayed in consequence of

When sale for
non-payment of
assessments to be
held.

any appeal, or the delay of any court in rendering its decision shall have been rendered, upon notice to be given as in other cases.

Penalty for neglect of duty.

SEC. 53. Any assessor, city treasurer, or other officer who shall in any case refuse or knowingly neglect to perform any duty enjoined upon him by this chapter, or who shall consent to, or connive at, any evasion of its provisions, whereby any proceedings required by this chapter 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 of debt, in any court having jurisdiction of the amount thereof.

Legality of assessment—no illegality shall vitiate the assessment.

SEC. 54. No assessment of property, or charge for assessments thereon, shall be considered illegal on account of any irregularity or informality in the assessment rolls, or on account of the assessment rolls not being made, completed or returned within the time required by law, or on account of the property having been charged or listed in the assessment list without name, or in any other name than that of rightful owner; and no error or informality in the proceedings of any of the officers entrusted with the levying and collection of special assessments, nor affecting the substantial justice of the assessment itself, shall vitiate or in any way affect the assessments.

When purchaser not entitled to deed.

SEC. 55. If any purchaser of lands, lots, or other property, sold for assessments, shall suffer the same to be again sold for like assessments, before the expiration of two years from the date of his or her purchase, such purchaser shall not be entitled to a deed for the property until the expiration of two years from the date of the second sale; during which time the land, lot or other property shall be subject to redemption, and the person redeeming shall only be required to pay, for the use of the purchaser at the first sale, the amount paid for the property, and the amount paid by the second purchaser, for his use, as in other cases.

Treasurer authorized to rent property bid in by the city.

SEC. 56. After any real estate shall have been bid in by or struck off to the city, said city may enter upon such real estate and take possession thereof, and through, or by the city treasurer may rent or lease the same until the rent shall pay the amount due on such special assessment, interest, penalty and costs.

SEC. 57. The city treasurer shall receive a fee of three-

per cent. on all warrants for special assessments collected by him, in compensation of the additional duties imposed upon him by this act. Compensation of Treasurer.

SEC. 58. All laws inconsistent with this act are hereby repealed. Repeal of inconsistent acts.

SEC. 59. This act to be in force and to take effect from and after its passage. When act to take effect.

Approved March 6, 1871.

CHAPTER XXXIII.

An Act to authorize the city of St. Paul to issue bonds for the purpose of building or constructing sewers in said city of St. Paul. March 6, 1871.

SECTION 1. Authorized to issue bonds—for what purpose—in what amount—at what rate of interest—when payable—to be submitted to the legal voters—ballots, how prepared.

2. Council to provide for the payment of interest and principal.

3. When act to take effect.

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

SECTION 1. That for the purpose of building or constructing sewers in said city of St. Paul the municipal corporation of the city of St. Paul is hereby authorized to issue thirty thousand dollars in bonds, in denominations of one thousand each, with coupons attached, with interest thereon at the rate of seven per cent. per annum, payable semi-annually in the city of New York. The principal payable twenty years from the date of their issue. Said bonds shall not be sold for less than eighty cents on the dollar. *Provided, however,* That said issue of said bonds shall not be made nor shall this act take effect until the question shall have been submitted to a vote of the qualified electors of the city of St. Paul, at some general city elec-

Authorized to issue bonds—for what purpose—what rate of interest—when payable—to be submitted to voters of said city—ballots, how prepared.