

SPECIAL LAWS

OF

MINNESOTA.

PASSED AND APPROVED AT THE SEVENTEENTH SESSION OF THE STATE LEGISLATURE, COMMENCING JANUARY FIFTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE, AND TERMINATING MARCH FIFTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE.

CHAPTER I.

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO REDUCE THE LAW INCORPORATING THE CITY OF ST. PAUL, IN THE COUNTY OF RAMSEY AND STATE OF MINNESOTA, AND THE SEVERAL ACTS AMENDATORY THEREOF, AND CERTAIN OTHER ACTS RELATING TO SAID CITY, INTO ONE ACT, AND TO AMEND THE SAME.

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

SECTION 1. That section one, chapter two, be amended by striking out in line three of said section, the words, "on the second Tuesday of December," and inserting in lieu thereof the words, "on the first Tuesday after the first Monday of November."

SEC. 2. That section twelve, chapter five, be amended by inserting after the word "act," in the second line of said section, the words, "except by a two-thirds vote of the common council elect."

SEC. 3. Section two of chapter six, shall read as follows: The said board of public works shall consist of three reputable freeholders and qualified electors of said city, no two of whom shall be residents of the same ward, and none of whom shall be members of the common council of said city, or hold any other office under the charter and ordinances of the city. They shall be appointed by the mayor, by and with the advice and consent of the common council, on the second Monday of March in each year, or as soon thereafter

as practicable, and their term of office shall be for a period of three years, and until their successors are appointed and qualified; *Provided*, That the terms of the existing members of said board shall terminate on the second Monday of March, eighteen hundred and seventy-five; *And provided further*, That one of the persons appointed in the year eighteen hundred and seventy-five, shall hold his office for one year, one for two years, and one for three years. In case the office of any member shall become vacant during his term, the said mayor shall, in like manner, as soon [as] practicable thereafter, appoint a person of like qualifications aforesaid, to fill said vacancy during said unexpired term, and until a successor shall be appointed and qualified. In case any member of said board is sick, or temporarily absent from said city, or otherwise temporarily prevented from acting as a member of said board, or is interested in any specific lot or parcel of land in relation to which said board are to act in making an assessment, the said mayor may, upon request to him by any member of the board or property owner interested, appoint a suitable person, with like qualifications of members of said board, to act in place of any member prevented from acting as aforesaid or interested as aforesaid, *pro tempore*.

SEC. 4. That section five, chapter seven, title one, be amended by adding thereto the following: "Two or more streets may be ordered to be graded at the same time, so that the material taken from one street may be used in filling others."

SEC. 5. That section seven, chapter five, be amended by striking out the word "and" before the words city officers in the thirteenth line and inserting after the words city officers in said line, and before the word "may" in the fourteenth line the words "and city printer."

SEC. 6. That section five of chapter six of chapter one of special laws of eighteen hundred and seventy-four, be amended by striking out in the third and fourth lines the words "six hundred" and inserting in lieu thereof the words "one thousand;" and in the fifth line of same section strike out the word "eight" and insert in lieu thereof the word "twelve."

SEC. 7. That section six, chapter seven, title one, be amended by adding thereto the following words: *Provided*, That such report or reports of the board of public works shall be construed as advisory to the council, and not essential to give the common council authority to order any improvements local to the city of St. Paul.

SEC. 8. That section fifteen, chapter seven, title one, be amended as follows: After the word "entered" in the fourth line of said section insert the words "ten days"; after the word "notice" in same line insert "by three publications"; in line five strike out the words "for at least ten times"; after the words "de novo" in the thirty-third and forty-second lines of same section insert the words "without any further order from the council."

SEC. 9. That section twenty-eight, chapter seven, title one, be amended so as to read as follows:

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 shall guarantee to the satisfaction of said board

the performance of said work to the satisfaction of said board, except in the case of paving streets with patented pavement or pavements, when in such case the notice for bids may call for wood, stone, or other kind of pavement, and when all the proposals therefor are in, the board may select the one which is relatively the lowest, or the most satisfactory all things considered, and the decision of the board therein shall be final. If the pavement selected is patented the said board shall require a license from the patentee to lay and relay the same for all time thereafter, free from all claims of royalty. Whereupon a contract shall be made on the part of said board, in the name of the city of St. Paul, and shall be executed on the part of said city by the president of said board, or such of their members as said board may designate, and the seal of said board shall be thereto attached, and the said contract shall be countersigned by the city comptroller. A copy of said contracts shall be filed in the office of the city comptroller, and registered in a book kept by him for that purpose. *Provided*, That said board may reject any bid which they shall deem unreasonable or unreliable. *And Provided further*, That no contract shall be awarded except upon or by a vote of at least two-thirds of the members of said board in favor thereof. *And Provided further*, That no such contract shall be awarded except with the approval of the common council by a two-third vote of the members thereof elect.

SEC. 10. That section thirty-five, chapter seven, title one, be amended so as to read:

Sec. 35. If the assessments charged in any special assessment warrant, whether made by reason of the appropriation or condemnation of land or for any other improvements whatsoever under the provisions of this chapter, shall not be paid within thirty days after the first day of publication of notice by the city treasurer that he has received such warrant for collection, (except that in case it is on a collection warrant issued on or by reason of a re-assessment or a new assessment, in which latter case the notice that such warrant is in the treasurer's hands shall only be published five days and require payments to be made within ten days.) After the first publication the assessment then remaining unpaid shall be collected with interest at the rate of two per cent. per month for each and every month thereafter until the same shall be paid.

SEC. 11. That section thirty-six, chapter seven, title one, be amended as follows: After the word "days" in the second line of said section insert the words "or after ten days on a reassessment or new assessment warrant," and in lines sixteen and nineteen strike out the word "board" and insert the word "treasurer," and in line seventeen strike out the word "six" and insert the word "five."

SEC. 12. That section thirty-nine, chapter seven, title one, be amended by striking out the words "to the jurisdiction of the common council or the board of public works" in the thirteenth and fourteenth lines of said section, and inserting in lieu thereof the following words: "That the common council had no authority to order the said improvement, or that the board of public works had no authority to have the said work performed."

SEC. 13. Section forty of chapter seven is hereby amended by

striking out the words "twenty-five cents" when it occurs in the fortieth and forty-first lines of said section, and inserting the words "one dollar."

SEC. 14. Section forty-four of chapter seven is hereby amended so as to read as follows :

Sec. 44. Certificates of sale shall be made and subscribed by the city treasurer, under the seal of the city of St. Paul, duly acknowledged before a notary public and signed by two witnesses, which shall be delivered to the purchaser, and which certificates of sale shall contain the name of purchaser, a description of the premises sold, the amount of the judgment for which the same was sold, adding interest at the rate of twenty-four per cent. per annum from the day when judgment was rendered to the day of sale, and fifty cents costs 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.

SEC. 15. That section fifty-four, chapter seven, title one, be amended by inserting after the word "error," in the first line of said section, the words, "or omission which may have heretofore been or may hereafter be made in the order or."

SEC. 16. That section sixty, chapter seven, title one, be amended so as to read as follows :

Sec. 60. In all cases where application has been heretofore, or shall hereafter be made, for judgment or judgments, either under an act to authorize "the city of St. Paul" to levy assessments, "approved March sixth," eighteen hundred and seventy-one, or as amended February twenty-ninth, eighteen hundred and seventy-two, or as amended February twenty-first, eighteen hundred and seventy-three, or as amended by act of March fifth, eighteen hundred and seventy-four, or under any or all of said acts, and judgment has heretofore been 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 the aforesaid acts, for any cause whatever, has been heretofore, or may be hereafter set aside or declared void by any court. The common council may order a re-assessment or new assessment upon all lots, blocks and parcels of land which have been or will be benefited by such improvement, to the extent of their proportionate part of the cost and expenses thereof, as near as the same can be ascertained by the board of public works, and such re-assessment or new assessment shall be made by the board of public works, as near as may be in accordance with the law in force at the time such re-assessment is made, and when the same shall have been made and confirmed by said board, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act, or the act to which this is amendatory. The fact that the contract has been let, or that such improvement shall have been in whole or in part completed, shall not prevent such new assessment from being made, or in any way affect the jurisdiction of the common council, to direct or order such new assessment as aforesaid. Nor shall the omission of said

board before the first assessment, to furnish the council with a report that, in their opinion, property can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby, or the omission of said board to furnish said council with a plan, section or profile of said improvement, constitute any objection to such re-assessment or new assessment, or in any way prevent the common council from directing such new assessment to be made where a new order of the council is required by this act. And in all cases where judgment has been heretofore or shall be hereafter refused or denied by any court, or where any court has heretofore or 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 re-assessed 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, to the benefits derived, or to be derived, from such improvement. In case the amount of such re-assessment shall be less than the first assessment upon the lots and parcels of land re-assessed. The deficit shall be paid out of the local improvement fund, except that in case of sewers it shall be paid out of the proper sewerage fund; *Provided*, That no new order by the council shall be required to make a new assessment where land has been taken for public use, and where said assessment has been annulled, as provided by section sixteen of the act of March fifth, eighteen hundred and seventy-four, to which this act is amendatory.

Sec. 17. That section sixty-one, chapter seven, title one, be amended so as to read:

Sec. 61. If in any case the first assessment to pay for local improvements, or for sewers of any kind, either before or after such improvement is completed, shall prove insufficient to fully pay for the same, whether said work was done before the passage of this act or otherwise, the common council may order the board of public works to assess and re-assess the same upon the property benefited, or which will be benefited, until a sufficient amount is realized to pay for the same. If too large an amount shall at any time be raised, the excess shall be refunded ratably to those by whom it was paid, if the council shall so order, it being the true intent and meaning of this act, to assess and re-assess upon the real estate benefited, to the extent of such benefits, for any deficiency over and above the first assessment which said improvement may cost, whether the said improvement has heretofore been made, or may hereafter be made, under the act of March sixth, eighteen hundred and seventy-one, entitled an act to authorize the city of St. Paul to levy assessments for local improvements, or under any act amendatory thereof, up to the passage of this act, and no error, or omission, or irregularity, whether jurisdictional or otherwise, shall prevent a re-assessment to the extent of the benefits conferred by such improvement, when ordered by the council.

Sec. 18. That section sixty-six, chapter seven, title one, be amended so as to read:

Sec. 66. If the board of public works or the common council, in carrying out the provisions of this chapter, should find unforeseen ob-

stacles in grading, excavating, filling, paving, or in any case of improving or opening or widening streets, or public highways, or sewers, not provided for, the common council may by resolution order such change or modification in such improvement to meet such unforeseen obstacles as the said council may deem equitable and just, upon the recommendation of the board of public works, or on their own motion, either before or after the confirmation of any assessment, or before or after the letting or making of any contract to do the same, or at any time while the work is in progress, by a two-third vote of the common council elect; and any additional expense occasioned by such change or modification of the improvement may be included in the original assessment or raised by an additional assessment upon the property benefited, or to be benefited, by such improvement, to the extent of such benefits. *Provided*, That no such work shall be done until ordered by the common council by a two-third vote of the members elect. *Provided*, That in all contracts the case of such unforeseen obstacles shall be anticipated as far as possible by the board of public works, causing a schedule to be made classifying the various kinds of work and material, and fixing the price to be paid by the city for such work or material as may become necessary, but cannot be foreseen; which said schedule shall be approved by the board of public works, and a copy thereof shall be signed by the bidders and attached to his bid, and the same shall be attached to and made part of the contract; but no additional expense shall be incurred other than may be absolutely necessary to overcome such unforeseen obstacles. The said board of public works shall have power to correct any error, omission, or mistake in an assessment either before or after the confirmation, up to the time judgment may be obtained thereon, either as to the amount, or owner, or description, so as to conform to the facts and rights of the case as intended; and if such error, omission or mistake either increases or diminishes the total assessment, the amount thereof shall be charged or credited to the ward improvement fund, or pro rata to each ward in which the work may be. *Provided*, That five days notice of the time and place of making such correction shall be given by one publication in the official newspaper of the city, unless the owner of the real estate affected be present or consents thereto. Said correction shall be entered of record, and a copy thereof filed with the city treasurer. *Provided*, That if the expense required to overcome such unforeseen obstacles will materially increase the cost which would be incurred in the work if such unforeseen obstacles had not occurred, then the common council shall have power by a two-third vote of the members elect to rescind the contract so far as the uncompleted part of the work is concerned, and may, in their discretion, by a two-third vote of the members elect, after such rescision, order the work to be re-let as other work is let under this chapter, and the original contractors in such case shall be entitled to be paid for the portion of the work done by him, ratably according to the contract price as nearly as the same can be ascertained, and no more.

SEC. 19. That section sixty-eight, chapter seven, title one, be amended as follows: In lines eight and nine of said section strike out the words or figures "eighteen hundred and seventy-three" and

insert the figures "eighteen hundred and seventy-two," also by inserting after the words "or unless there shall be funds belonging to said local improvement fund properly applicable to such improvement sufficient to pay for the same," the following proviso, to-wit: *Provided*, That unless the said half of the estimated cost of said improvement shall have been paid aforesaid, no such contract shall be made without a three-fourths vote of the members elect of said council.

Sec. 20. That section seventy, chapter seven, title one, be amended so as to read:

Sec. 70. After judgment shall be ordered to be entered against any lot or real estate for the non-payment of assessments, the same shall not be opened or set aside except for fraud or mistake in entering the same, or in ordering the same to be entered, any provision of the general laws of the state to the contrary notwithstanding.

Sec. 21. That section seventy-one, chapter seven, title one, be amended by adding thereto the following words: "And the determination and assessment or estimate of benefits of said board shall be final, except where an appeal is expressly allowed under the act to which this is amendatory.

Sec. 22. That section seventy-three, chapter seven, title one, be amended by adding thereto the following forms of orders which shall be deemed sufficient:

FORM NUMBER ONE.

It is hereby ordered by the common council of the city of St. Paul:

That the matter of.....

..... he and the same is hereby referred to the board of public works to investigate and report.

1st. Is this improvement proper and necessary?

2d. Give the council an estimate of the expense thereof, and state whether one-half of the cost thereof is to be paid into the city treasury before the contract is let.

3d. Can real estate to be assessed for said improvement be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby?

4th. Is such improvement asked for upon the petition or application of the owners of a majority of the property to be assessed for such improvement?

5th. Send the council a plan or profile of said improvement, as required by law, if you report in favor of the same.

6th. Send the council a proper order directing the work to be done.

FORM NUMBER TWO.

It is hereby ordered by the common council of the city of St. Paul:

That the board of public works of said city of St. Paul cause the following improvements to be made, to-wit:.....

.....

That said board cause said work to be let by contract, as provided by law. When one-half of the estimate cost is paid into the city treasury (if this is required,) and after said work shall be placed under contract, said board shall proceed, without delay, to assess the amount, as nearly as they can ascertain the same, which will be required to pay the damages, costs, and necessary expenses of such improvement upon the real estate to be benefited by said improvement, as provided by law, it being the opinion of the council that real estate, to be assessed for such improvement, can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby.

FORM NUMBER THREE.

It is hereby ordered by the common council of the city of St. Paul:

That, whereas the common council is officially advised that upon the application of the city treasurer to the.....
of Ramsey county, Minnesota, for judgment against the following
lots, blocks and parcels of land heretofore assessed by the board of
public works, for.....

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judgment was denied by said court.

To-wit:.....
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Wherefore the board of public works of the city of St. Paul are hereby ordered to re-assess the aforesaid lots and parcels of land for their proportionate part of the cost and expense of such improvement, not exceeding the benefits accruing to such lot, block, or parcel of land, from such improvement, and proceed therein in the mode and manner prescribed by law, it having been made to appear to the council, and in the opinion of said council, that said lots and parcels of land have been benefited by such improvement.

Sec. 23. That section two, chapter ten, be amended so as to read:

Sec. 2. There shall be a meeting of the members of said companies on the third Monday of November of each year, at such places as may be designated by the chief engineer, when they may nominate and recommend to the common council for appointment one chief engineer and two assistant engineers, and the common council may thereupon confirm said nominations; and the persons so appointed shall perform such duties as the common council may prescribe. *Provided*, That no person who has not been an active fireman for at least four months immediately prior to such nomination, or one who shall have served five years as an active fireman and received his exempt certificate therefor, shall participate in the making thereof. *And Provided further*, That upon [the] rejection of any nomination the members of said companies qualified as aforesaid may

meet at a time and place designated by the chief engineer and nominate and recommend for such appointment a person other than the one previously nominated.

SEC. 24. Section five of chapter five is hereby amended by inserting after the word "notwithstanding" the words "and also report to the common council monthly the amount of cash on hand at the date of each report."

SEC. 25. This act shall take effect and be in force from and after its passage.

Approved March 4, 1875.

CHAPTER II.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT ENTITLED AN ACT TO REDUCE THE LAW INCORPORATING THE CITY OF SAINT PAUL, IN THE COUNTY OF RAMSEY, STATE OF MINNESOTA, AND THE SEVERAL ACTS AMENDATORY THEREOF, AND CERTAIN OTHER ACTS RELATIVE TO SAID CITY, INTO ONE ACT, AND TO AMEND THE SAME.

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

SECTION 1. An 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, and certain other acts relative to said city, into one act, and to amend the same, approved March fifth, eighteen hundred and seventy four, is hereby amended by substituting the words, "judge of the municipal court," in place of the words, "justice of the peace for the city," and in place of the words "city justice," whenever they occur in said act.

SEC. 2. There is hereby established in said city a court of record, to be called "municipal court," for the transaction of all business which may lawfully come before it, and the present city justice of said city shall be the judge of said "municipal court" until his successor is elected and qualified.

SEC. 3. Said court shall have a clerk and a seal, and shall have, in addition to the jurisdiction and powers now conferred by said act upon the city justice of said city, cognizance of and jurisdiction to hear, try and determine civil actions or proceedings, where the amount in controversy does not exceed two hundred dollars, or where, in case the action is for the recovery of personal property, the value of such property does not exceed two hundred dollars; *Provided, however,* That such cognizance and jurisdiction shall only extend to actions of the same nature and character, save as to