

CHAPTER 224.

AN ACT authorizing the city of St. Paul to construct a permanent roadway over Phalens Creek on the line of East Seventh street, and to issue bonds in aid thereof.

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

SECTION 1. That the common council of the city of St. Paul are hereby authorized and required to construct a permanent and substantial street crossing over and through the valley of Phalen's Creek on the line of East Seventh street in said city, and to construct all necessary earth embankments and all work connected with said improvement, including a culvert over said creek sufficient in size and capacity to admit the waters of said creek to pass under said roadway, and of sufficient strength to support an earth embankment and roadway of not less than sixty-six (66) feet in width on the top at grade, with proper slopes or retaining walls with power to said city to acquire by purchase or condemnation, property (not included in the right of way or premises of the St. Paul and Duluth railroad company, save and except that said city shall have the right to cross over and above the tracks and roadway of said company so as not to interfere with the passage of trains under the same). Such condemnations to be made and proceedings had therefor as are provided in the charter of said city, such additional lands or easements therein as may be necessary to make such improvement and sustain such embankment and so as to increase the width of said street through said valley so far as the same shall be deemed necessary by said common council for the purposes aforesaid.

SEC. 2. That it shall be the duty of said common council within a reasonable time and without unnecessary delay from the passage of this act, to change the present grade of said street if deemed necessary for the improvement named in the first (1st) section of this act, and to establish the permanent grade of said East Seventh street from same point on said street westerly of said valley to the eastern limits of said city, and to provide that all the earth to be removed in improving said street in accordance with the grade so to be established, shall be deposited in said valley and form part of said embankment and roadway, unless earth for said purpose can be obtained cheaper elsewhere. The same to be deposited as not to injure the present temporary bridge over said valley.

SEC. 3. That the culvert over said Phalen's Creek hereinbefore named shall be constructed as soon as the same can be reasonably done after said grade is established.

SEC. 4. No railroad corporation shall be allowed to cross said street, except upon the track or right of way now used or secured, so as to disturb or pass through or under said embankment without the consent of the common council of said city; *Provided however*, that any railroad company or companies hereinafter desiring to construct and operate a track or line of railroad across said portion of Seventh street, within said valley, may at any time after the passage of this act, at its or their own cost and expense and in such manner as may be approved by said common council, construct and complete proper substantial stone or brick archways sufficient in size to admit the passage of cars through the same, and of sufficient strength to support a solid earth embankment across said valley of sixty-six (66) feet in width at the top thereof, with suitable and proper slopes in accordance with the grade so to be established and of the improvements in this act authorized.

SEC. 5. That said common council may, by contract or otherwise, procure from the owners of property adjacent to the present lines of said street within said valley, the right or license to use such lands for the purpose of said improvement to be covered by said embankment or the slopes thereof, and to provide that such owners, their heirs or assigns, may erect and maintain upon the lands so required for such purpose, buildings or other structures adjacent to or abutting upon the said roadway, under such provisions and stipulations as said common council may deem proper and expedient in the premises.

SEC. 6. That only so much of the proceeds of the bonds now provided by law to be issued for the repair or re-building of the bridge now constructed on the line of said street over said valley, shall be expended as may be required to temporarily repair said bridge, and that the residue of said proceeds or so much thereof as may be necessary shall be applied to the construction of the culvert over said creek in this act provided for, and the residue if any to apply on said embankment.

SEC. 7. That the earth so to be removed in the grading of said East Seventh street and deposited so as to form part of said embankment shall be duly estimated by the city engineer and paid for out of the proceeds of the bonds in this act provided for at the rate of six (6) cents per cubic yard; the residue of the cost of such grading, removal and deposit to be charged and collected as hereinafter provided.

SEC. 8. That the engineering expenses properly chargeable to the establishment of said grade shall be paid by said city and not included in any assessment of benefits or damages against any property benefited by said improvement.

SEC. 9. That the board of public works of said city are hereby empowered, and it shall be the duty of said board to assess the benefits if any, and damages resulting to any property by reason of said change of grade of said street, and assess the same under and in accordance with the provisions of the charter of said city in such cases provided, and to assess such damages after deducting

such benefits upon all the property found benefited. The same to be collected as now provided by the charter of said city in cases of assessments for local improvements.

SEC. 10. That the expense of so grading said street and the removal and deposit of said earth in said embankment, less the said amount of six (6) cents per cubic yard as hereinboard of public works upon all the property benefited thereby, in before provided to be paid by said city, shall be assessed by the said case property shall be found benefited to the whole amount so assessed, and in case property shall not be found benefited to the whole amount thereof, then for such amount as said board shall find benefited and properly chargeable therewith, and the same shall be assessed and collected in the same manner and with like effect as is now provided by the charter of said city in cases of local improvements; and in case any portion of said expense shall be found not properly assessable upon property, the residue thereof shall be paid out of the proceeds of the bonds hereby authorized.

SEC. 11. That the common council of said city of Saint Paul are hereby authorized to issue the bonds of said city for the purposes in this act named, to an amount in the aggregate of not exceeding fifteen thousand (15,000) dollars; said bonds shall be issued in amounts or denominations of one thousand (1,000) dollars each and shall bear interest at a rate not exceeding five (5) per cent per annum payable semi-annually on the first (1st) days of March and September, after issue, with or without interest coupons attached. They shall be payable in twenty-five (25) years from their date and may be made payable in the city of New York or in the city of Saint Paul or in both said places as the said common council may direct, and the said bonds shall not be sold at a less price than their par value and accrued interest if any. That said common council are empowered and required annually to levy a tax on all property in said city subject to taxation sufficient to provide for the punctual payment of the interest on said bonds and to provide a sinking fund for the payment of the principal on said bonds, and the fund so provided shall be set apart and held inviolate for the purposes aforesaid; *Provided*, that all accumulations of said fund may be invested by order of said common council in the registered bonds of the United States until needed for the payment of the principal of said bonds; or such accumulations may be used for the purchase of any of the bonds of said city at a rate not exceeding three (3) per cent. above the par value thereof.

SEC. 12. That said bonds may be issued from time to time as the said work of said improvement progresses, and the proceeds thereof, or so much as may be necessary for said purpose, shall be faithfully applied to the purpose aforesaid.

SEC. 13. Said city shall not be compelled to expend for said work any greater sum than that provided for in this act.

SEC. 14. This act to take effect and be in force from and after its passage.

Approved, March 4, 1881.